

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

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

TABATHA BARNES, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	NO. CIV-16-0184-HE
)	
CITY OF OKLAHOMA CITY, <i>et al.</i> ,)	
)	
Defendants.)	

ADAIRA GARDNER,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-16-0349-HE
)	
DANIEL HOLTZCLAW, <i>et al.</i> ,)	
)	
Defendants.)	

ROSETTA GRATE,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-16-0412-HE
)	
CITY OF OKLAHOMA CITY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Various motions are pending in the captioned cases, which have been consolidated for purposes of discovery.

Certain of the plaintiffs have moved for a judicial settlement conference, to which all defendants object. The court concludes it would be premature to order a settlement conference now, in advance of the disposition of the summary judgment motions which the City of Oklahoma City indicates it will be filing. The motions for settlement conference will be denied, subject to being renewed later if appropriate.

Defendant Holtzclaw has moved to compel the production of certain discovery by the City of Oklahoma City and to compel the production of the medical and mental health records of the plaintiffs. That motion is not yet at issue, but the responses filed by plaintiffs to related motions and the information in the motion itself make clear that, as to the medical and mental health records, Holtzclaw is seeking to compel the production of records he has not previously sought. Informal requests for execution of medical releases several months ago are not the same as invoking discovery procedures which may properly be the basis for a motion to compel. Further, there is no basis for making some exception to the usual approach here, given that the formal request for records came (via

the motion) on the last day of the discovery period, after the case has been pending for five years. The motions to compel will be denied insofar as they seek production of the plaintiffs' medical or mental health records. The balance of the motions (i.e., the production sought from the City of Oklahoma City) will be resolved once the motions are at issue.

Defendant Holtzclaw has moved to extend the discovery deadline for the purpose of addressing the remaining discovery issues. Certain of the plaintiffs object on the basis that defendant Holtzclaw should not be allowed to initiate discovery now at the last minute. The City objects on the basis that an extension would give other parties "another opportunity to pick apart their summary judgment motions."

Although this court ordinarily establishes a discovery cutoff in advance of the cutoff for dispositive motions, there is nothing magic about that approach and other judges routinely establish discovery deadlines after the dispositive motions deadline. So, there is nothing inherently prejudicial to the City (or any non-movant) of having the discovery deadline come after the deadline for summary judgment motions. Further, Holtzclaw's counsel offers an explanation for why various matters being pursued with the City have not been resolved sooner.¹ The motions for extension of discovery will therefore be granted, but only as to the unresolved matters embraced by the pending motion to compel (i.e., the production requested from the City of Oklahoma City).


¹ *Holtzclaw's counsel indicates he has had three eye surgeries in the last two months, which have complicated his ability to finalize discovery matters. Less persuasive is his contention that he "came into this litigation late in the process." While that is true in a relative sense, for a case that has been pending for five years, counsel has been in the case since December of 2019 — over a year and a half.*

The “City” defendants have moved for extension of the dispositive motion deadline, presently September 15, to five days after Holtzclaw’s motion to compel is resolved. As noted above, there is nothing inherently prejudicial about the current deadline and circumstances and no apparent reason to assume the resolution of the remaining discovery issues might materially impact the summary judgment motions. The motions will therefore be denied except that the deadline will be extended to Monday, September 20, 2021, in light of the time which has elapsed since the filing of the motion.

For these reasons, the motions for settlement conference [Doc. Nos. 216 and 338 in Case Nos. CIV-16-0019 and CIV-16-0184 respectively] are **DENIED**. The motions to compel discovery [Doc. Nos. 223, 347, 162, and 146 in Case Nos. CIV-16-0019, CIV-16-0184, CIV-16-0349, and CIV-16-412 respectively] are **DENIED** as to the request for plaintiffs’ medical and mental health records but remain for resolution as to the remaining issues. Any party objecting to the motions as to the unresolved matters (i.e., the production by the City) shall file their response by **September 20, 2021**. The motions for extension of the discovery deadline [Doc. Nos. 224, 348, 163, and 147 in the same respective cases] are **GRANTED** and the discovery deadline is extended to **October 1, 2021**, but only as necessary to resolve the remaining issues embraced by the motion to compel. The motions for extension of time to file dispositive motions [Doc. Nos. 235, 360, 173, and 158 in the same respective cases] are **DENIED**, but the deadline for such motions is extended to **September 20, 2021**.

IT IS SO ORDERED.

Dated this 13th day of September, 2021.



JOE HEATON
UNITED STATES DISTRICT JUDGE