



IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

SEP - 1 2020

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

CV-2020-01179

JURY TRIAL DEMANDED
ATTORNEY LIEN CLAIM

Caroline Wall

- 1. LESSIE BENNINGFIELD RANDLE,)
Tulsa Race Massacre Survivor)
- 2. HISTORIC VERNON A.M.E. CHURCH, INC.,)
a domestic not-for-profit corporation,)
- 3. LAUREL STRADFORD,)
great-granddaughter of J.B. Stradford,)
- 4. ELLOUISE COCHRANE-PRICE,)
daughter of Clarence Rowland and)
cousin of Dick Rowland,)
- 5. TEDRA WILLIAMS,)
granddaughter of Wess Young,)
- 6. DON M. ADAMS,)
nephew and next friend of Dr. A.C. Jackson,)
- 7. DON W. ADAMS,)
grandson of H.A. Guess,)
- 8. STEPHEN WILLIAMS,)
grandson of A.J. Smitherman)
- 9. THE TULSA AFRICAN)
ANCESTRAL SOCIETY,)
an unincorporated association,)
- Plaintiffs,)
- v.)
- 1. CITY OF TULSA,)
a municipal corporation,)
- 2. TULSA REGIONAL CHAMBER,)
a domestic not-for-profit corporation,)
- 3. TULSA DEVELOPMENT AUTHORITY,)

DISTRICT COURT OF TULSA COUNTY
SEP 1 2020

- 4. TULSA METROPOLITAN AREA PLANNING)
COMMISSION,)
- 5. BOARD OF COUNTY COMMISSIONERS)
FOR TULSA COUNTY, OKLAHOMA)
- 6. VIC REGALADO, IN HIS OFFICIAL)
CAPACITY AS SHERIFF OF TULSA)
COUNTY,)
- 7. OKLAHOMA MILITARY DEPARTMENT,)
Defendants.)

PETITION

COME NOW the Plaintiffs, by and through their counsel of record, Damario Solomon-Simmons of *SolomonSimmonsLaw*; Spencer Bryan and Steven Terrill of *Bryan & Terrill, P.L.L.C.*; Professor Eric Miller of *LMU Loyola Law School*; Professor Emerita Adjoa A. Aiyetoro of *UALR Wm. H. Bowen School of Law*; Maynard M. Henry, Sr. of *Maynard M. Henry Sr., Attorney At Law, P.C.*; and Lashandra Peoples-Johnson and Cordal Cephas of *Johnson | Cephas Law*, bring this action against Defendants to abate the public nuisance caused by Defendants’ unlawful acts and omissions that began with the Tulsa Race Massacre of 1921 (“Massacre”) and continues to this day. The Plaintiffs also seek to recover for unjust enrichment for the Defendants’ exploitation of the Massacre for their own economic and political gain For their cause of action against Defendants, Plaintiffs hereby state as follows:

I. STATEMENT OF THE CASE

1. This lawsuit seeks to remedy the ongoing nuisance caused by the 1921 Tulsa Race Massacre in the Greenwood District of Tulsa and to obtain benefits unjustly received by

Defendants based on the Massacre. The type of nuisance inflicted upon the Greenwood neighborhood and community was aptly described by current City of Tulsa Mayor, G.T. Bynum, “In Tulsa, the racial and economic disparities that still exist today can be traced to the 1921 race massacre.”¹ The victims of this nuisance are residents of the Greenwood community and members of the predominantly Black, North Tulsa community.² Plaintiffs seek a court order, as authorized by Oklahoma’s Public Nuisance Law, Okla. Stat. tit. 50, § 1, requiring Defendants to abate the public nuisance of racial disparities, economic inequalities, insecurity, and trauma their unlawful actions and omissions caused in 1921 and continue to cause ninety-nine years after the Massacre.

2. Beginning on May 31, 1921 and lasting through June 1, 1921, one of the worst acts of domestic terrorism in United States history since slavery completely decimated Tulsa’s thriving, all-Black community of Greenwood. A large, angry White mob, including some members of the Tulsa Police Department, The Tulsa County Sheriff’s Department, and the National Guard, as well as other City and County leaders and members of the Chamber of Commerce, overwhelmed the approximately 35-square-block community, killing hundreds of Black residents, injuring thousands more, burning down over one thousand homes and businesses, and stealing residents’ personal property. This brutal, inhumane attack, now referred to as the Tulsa Race Massacre of 1921, robbed thousands of African Americans of their right of self-determination³ on which they

¹ *Bloomberg Philanthropies Announces City of Tulsa Will Receive \$1 Million for Public Art Project Honoring America’s First ‘Black Wall Street’*, City Of Tulsa (archived Mar. 2, 2019), <https://www.cityoftulsa.org/press-room/city-of-tulsa-named-bloomberg-philanthropies-2018-public-art-challenge-winner/>.

² The history of the development of North Tulsa includes the facts that the Greenwood District and community destroyed by the Defendants is in North Tulsa, the Black population grew in North Tulsa generally from 1921 to the present largely due to “white flight” and today, most people in Tulsa, White or Black, consider North Tulsa to be synonymous with Black Tulsa.

³ Okla. Const. Art. II, § 2.

had built this self-sustaining community, and annoyed, injured and endangered the comfort, repose, health, and safety of the members of the Greenwood community, and rendered them insecure in their lives and the use of their real and personal property.

3. Following the Massacre, Defendants exacerbated the damage and suffering of the Greenwood residents. Defendants unlawfully detained thousands of Greenwood survivors and enacted unconstitutional laws that deprived Greenwood residents of the reasonable use of their property. From the period immediately after the Massacre until the present day, Defendants actively and unlawfully thwarted the community's efforts to rebuild, neglecting the Greenwood and predominantly Black, North Tulsa communities. Instead, Defendants redirected public resources to benefit the overwhelmingly White parts of Tulsa. Defendants also used federal programs such as Urban Renewal to continue the destruction of the Greenwood community. As a direct result, Plaintiffs and other Greenwood and North Tulsa residents and their descendants have experienced and continue to experience insecurity in their lives and property and their sense of comfort, health, and safety has been destroyed. Plaintiffs therefore seek to abate this public nuisance that has continued to plague Tulsa's Black community for nearly one hundred years.

4. To add to the Plaintiffs' other injuries, in 2016 the Defendants began enriching themselves by promoting the site of the Massacre as a tourist attraction, obtaining funds to do so, as well as aiding in obtaining funds to create a history center of which Defendants will have a central role. The residents of the Greenwood neighborhood and North Tulsa have reaped no significant direct benefits from Defendants' appropriation of the Massacre.

II. THE PARTIES

5. Plaintiff **Lessie E. Benningfield Randle** (“Mother Randle”) is an individual who at all relevant times has resided in the County of Tulsa, State of Oklahoma. Mother Randle is directly affected by the Massacre and the ongoing public nuisance.

6. Plaintiff **Historic Vernon A.M.E. Church, Inc.** (“Vernon”) is a domestic not-for-profit corporation which at all relevant times has been a resident of Greenwood, at 307 North Greenwood Avenue, in the County of Tulsa, State of Oklahoma. Vernon is directly affected by the Massacre and the ongoing public nuisance.

7. Plaintiff **Laurel Stradford** (“Stradford”) is an individual who resides in Chicago, Illinois. Stradford is the great-granddaughter of J.B. Stradford who owned the Stradford Hotel in Greenwood, the largest Black owned hotel in the United States at the time of the Massacre. Stradford is directly affected by the Massacre and the ongoing public nuisance.

8. Plaintiff **Ellouise Cochrane-Price** (“Price”) is an individual who at all relevant times has resided in the County of Tulsa, State of Oklahoma. Price is the daughter of Massacre victim Clarence Rowland and the cousin of Massacre victim Dick Rowland. Price is directly affected by the Massacre and the ongoing public nuisance.

9. Plaintiff **Tedra Williams** (“Williams”) is the granddaughter of Massacre survivor **Wess Young** (“Young”). Williams is an individual who resides in Dallas, Texas. Williams is directly affected by the Massacre and the ongoing public nuisance.

10. Plaintiff **Don M. Adams** (“M. Adams”) is an individual who resides in Del City, Virginia. Adams is the nephew and next of kin of Massacre victim Dr. A.C. Jackson. Adams is directly affected by the Massacre and the ongoing nuisance.

11. Plaintiff **Don W. Adams** (“W. Adams”) is an individual who resides in Alpharetta, Georgia. W. Adams is the grandson of Massacre survivor Attorney H.A. Guess. W. Adams is directly affected by the Massacre and the ongoing nuisance.

12. Plaintiff **Stephen Williams** (“S. Williams”) is an individual who resides in San Bernardino, California. S. Williams is the grandson of Massacre survivor Attorney A.J. Smitherman. S. Williams is directly affected by the Massacre and the ongoing nuisance.

13. Plaintiff **The Tulsa African Ancestral Society** (“Society”) is a domestic not-for-profit corporation that maintains its principal place of business in the County of Tulsa, State of Oklahoma. Society’s membership includes descendants of Massacre survivors. Society is directly affected by the Massacre and the ongoing public nuisance.

14. Defendant **City of Tulsa** (“City”) is a municipal corporation created and authorized under the laws of the State of Oklahoma, which is and at all relevant times has been situated in the County of Tulsa, State of Oklahoma.

15. Defendant **Tulsa Regional Chamber** (“Chamber”) is a domestic not-for-profit corporation that maintains its principal place of business in the County of Tulsa, State of Oklahoma.

16. Defendant **Tulsa Metropolitan Area Planning Commission** (“Planning Commission”) is a public body corporate created and existing in the City of Tulsa, County of Tulsa, State of Oklahoma. Defendant’s principal office is located in the City of Tulsa, State of Oklahoma.

17. Defendant **Tulsa Development Authority** (“TDA”) is a public body corporate created and existing in the City of Tulsa, County of Tulsa. Defendant’s principal office is located in the City of Tulsa, State of Oklahoma.

18. Defendant **Tulsa County** (“Tulsa County”) founded at statehood, in 1907, is a political subdivision of the State of Oklahoma. Defendant’s principal office is located in Tulsa, Oklahoma.

19. Defendant **Oklahoma Military Department** (“National Guard”) is an agency of the State of Oklahoma pursuant to 44. O.S. 2001 Section 21. Defendant’s principal office is located in Oklahoma City, Oklahoma.

20. Defendant **Vic Regalado** (“Regalado”) was elected Sheriff of Tulsa County, Oklahoma in 2016. He is sued in his official capacity as the duly elected Sheriff of Tulsa County. Defendant’s principal place of business is located in Tulsa, Oklahoma.

III. JURISDICTION AND VENUE

21. This Court has exclusive jurisdiction over the parties and subject matter and venue is proper in Tulsa County.

IV. SPECIAL HARM TO THE PLAINTIFFS

22. **Mother Randle**, at 105 years old, is a survivor of the Massacre. Defendants looted and destroyed Mother Randle’s grandmother’s home, rendered her insecure in her health and sense of safety in the immediate aftermath of the Massacre and caused her to have emotional and physical distress that continues to this day. She experiences flashbacks of Black bodies that were stacked up on the street as her neighborhood was burning, causing her to constantly relive the terror of May 31 and June 1, 1921. The Massacre left her family without sufficient financial resources to provide the needed physical and emotional support to overcome the terror of the

Massacre. Throughout her life, she has struggled financially, emotionally, and socially as a result of the continuing public nuisance and will do so until the nuisance is abated.

23. **Vernon**, founded in 1905, is the only standing Black-owned structure from the Historic Black Wall Street era and the only edifice that remains from the Massacre. Vernon's sanctuary burned in the Massacre. The basement was the only part of the red brick building that remained. Vernon also lost many prominent members, including its pastor, Reverend C.R. Tucker, all of whom had contributed to the church, financially or socially. The trauma of the Massacre, including the loss of prominent members who contributed both financially and by their involvement, made it harder for the remaining church members to repair and furnish the basement to make it usable for services at this time of great spiritual need. Greenwood founder O.W. Gurley, who also founded Vernon, is an example of this significant loss. The trauma and losses caused by the 1921 Massacre continue to plague the congregation today and will do so until the nuisance is abated.

24. **Stradford** is the descendant of Attorney J.B. Stradford, a businessman widely regarded as the wealthiest resident of Greenwood at the time of the Massacre. Defendants destroyed J.B. Stradford's property, including the Stradford Hotel. Immediately after the Massacre Defendants empaneled an all-White Tulsa County grand jury that criminally indicted J.B. Stradford on charges of causing the Massacre. Defendants' actions injured J.B. Stradford's security and caused him to flee Tulsa in fear of his life. Defendants interfered with his returning to rebuild and enjoy the use of his land. Defendants' destructive acts rendered J.B. Stradford and his descendants, including Stradford, insecure in their health and security, and caused a loss of

family wealth, status, and security that continues to affect Stradford to this day and will until the nuisance is abated.

25. **Price** is the descendant and daughter of Massacre survivor Clarence Rowland who was kidnapped by White men the day after the Massacre which was caused by the Defendants' acts in inciting the Massacre. Rowland was held, beaten, and tortured by the White men for 2 weeks because he could not tell them the whereabouts of his and Price's cousin, Dick Rowland, who was falsely accused of sexually assaulting a White woman (the false accusation that incited the angry White mob, leading to the Massacre). Defendants' actions destroyed Clarence Rowland's property, rendered Rowland and his descendant Price to be insecure in their health and security, and caused Price continuing physical and emotional distress. The destruction of Greenwood and Defendants' active interference in reconstruction efforts have resulted in a loss of family wealth, status, security, and mental and physical health that continues to plague Price to this day and will continue until the nuisance is abated.

26. **Williams** is the granddaughter of Wess Young. Defendants destroyed Young's property and unlawfully detained him against his will at the Booker T. Washington High School. Defendants' actions rendered Young and his descendant Williams insecure in their health and security, and caused continuing physical and emotional distress that continues to plague Williams to this day and will continue until the nuisance is abated.

27. **M. Adams** is an heir and nephew of Dr. A.C. Jackson. Dr. A.C. Jackson was brutally murdered and his property looted and destroyed during the Massacre. Defendants' actions rendered Adams insecure in his health and security and caused continuing physical and emotional distress. Defendants' destruction of Greenwood, murder of Dr. A.C. Jackson, and use

of Dr. A.C. Jackson's story, name and likeness for their own benefit and self-aggrandizement has resulted in a loss of family wealth, status, security, and negatively affected M. Adams' mental and physical health that continues to this day and will continue until the nuisance is abated.

28. **W. Adams** is the grandson of Attorney H.A. Guess. Defendants looted and destroyed Guess' property. Guess lost clients, income, and his savings as a result of the Massacre. Further, Defendants' actions rendered Guess and his descendants insecure in their health and security, and caused financial, physical, and emotional distress that continues to plague W. Adams to this day and will continue until the nuisance is abated.

29. **S. Williams** is the grandson of Attorney A.J. Smitherman, journalist. Defendants looted and destroyed Smitherman's property. Smitherman, the nationally known and influential publisher, and editor-in-chief of the Tulsa Star was also forced into exile first to escape the White mob and later from Defendants' spurious criminal charges. Defendants' actions rendered Smitherman and his descendants insecure in their health and security, and caused continuing financial, physical, and emotional distress that continues to plague S. Williams to this day and will continue until the nuisance is abated.

30. **Society** includes descendants of Massacre survivors and represents descendants of Massacre survivors by publicizing their ancestors' experiences during the Massacre and ongoing destruction of Greenwood. The Society's work to chronicle the history of the Massacre has been excluded by Defendants as they seek to profit from the Massacre, which has caused emotional distress and financial losses to the Society membership. Defendants actions have and continue to result in a loss of family wealth, status, security, and mental and physical health that continues to this day and will until the nuisance is abated.

V. GREENWOOD

31. In 1906, African American community leader O.W. Gurley founded "Greenwood," a community on the northeast side of Tulsa.

32. In May 1921, the Greenwood community and neighborhood was home to more than 10,000 African Americans as well as hundreds of thriving Black-owned businesses and organizations.

33. Running north out of the downtown commercial district and shaped, more or less, like an elongated jigsaw puzzle piece, Greenwood was bordered by the Frisco railroad yards to the south, by Lansing Street and the Midland Valley tracks to the east, and by Stand Pipe and Sunset Hills to the west.

34. Greenwood was unlike any other Black community in the country. Its founders and residents had successfully created an affluent, self-sufficient, and flourishing community. Much of the land and the structures in Greenwood were owned by Greenwood residents. Black people from around the country visited Greenwood to witness and enjoy its prosperity.



35. Gurley and other community leaders played a central role in developing the Greenwood neighborhood and its economy. For example, community leader Attorney J.B. Stradford built the Stradford Hotel which was known as the largest and finest African American owned hotel in the United States. Community leader Attorney A.J. Smitherman published the nationally influential Black-owned newspaper, the *Tulsa Star*, and served as the President of the Western Negro Press Association, the purpose of which was to represent Black newspaper publishers west of the Mississippi and support their efforts to expose racial terrorism. These and other community leaders were essential to creating a flourishing community. Famous for its social cohesion and economic strength, Greenwood became known throughout the United States as “Black Wall Street.”

VI. TULSA RACE MASSACRE

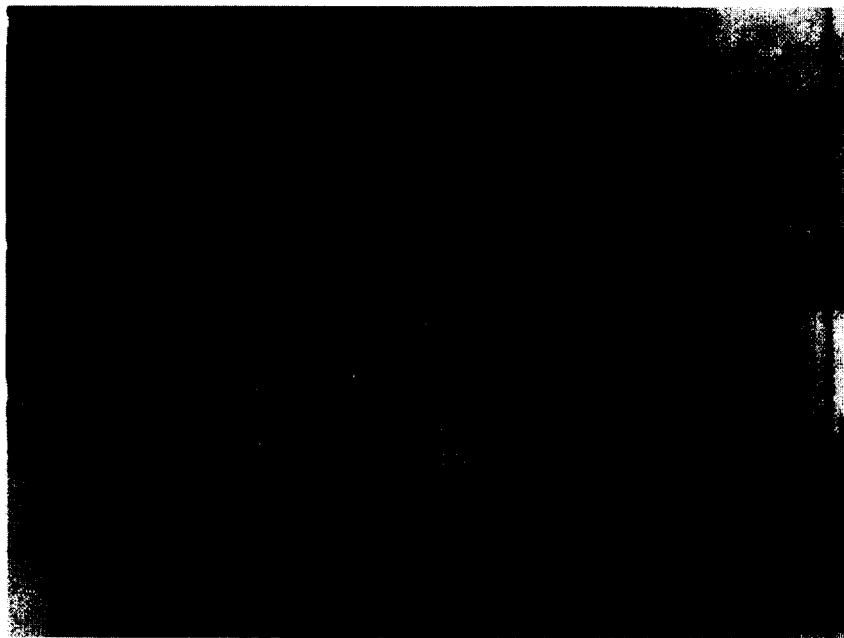
36. On May 31, 1921, Tulsa City police arrested a 19-year-old resident of the Greenwood community, Dick Rowland, on false charges of assaulting a White woman. The *Tulsa Tribune* published a false and inflammatory article which accused Rowland of attempting to rape the White woman. It also published an editorial that encouraged White people in Tulsa “To Lynch a Negro Tonight.”

37. The *Tribune's* false and inflammatory reporting endangered Rowland's life and fueled the formation of an angry White mob that led to the Massacre.

Defendants Deputize and Arm White Residents

38. By 10:00 p.m. on May 31, the Tulsa police station was filled with a mob of armed, angry White people - overwhelmingly male. The police deputized and armed male civilians without regard for the safety and security of the African American residents of Greenwood. They kept no record of which civilians were issued weapons. Instead the police department ordered deputies and non-deputies alike to “go home, get a gun, and get a nigger.”⁴

⁴ Scott Ellsworth, *Tulsa Race Massacre*, OKLA. HIST'L SOC. [hereinafter “Ellsworth, *Tulsa Race Massacre*”] (last visited Jan. 23, 2020 2:08 P.M. C.S.T.), <https://www.okhistory.org/publications/enc/entry.php?entry=TU013>.



39. From May 31 - June 1, 1921, Defendants ripped the Greenwood community apart. Valiant efforts by Greenwood residents to defend their community from this brutal attack were unsuccessful. They were outnumbered and outgunned. This angry, White mob attacked Greenwood, killing hundreds of Greenwood's residents, looting their homes and businesses, and reducing an approximately 35-square-block area (4 square miles) of homes and businesses to ash and rubble. Hundreds of Greenwood residents died. Thousands more were injured. Still thousands more were left homeless—many forced to flee Tulsa never to return. Many were simply never heard from again.

40. Various City and County officials including officers of the Defendant City's Police Department and members of the County Sheriff's office unlawfully and without just cause, participated with the angry White mob, killing African American Greenwood residents.

41. The newly-deputized members of the Tulsa Police Department, County Sheriff and City and County officials also committed arson on hundreds of Greenwood residents' homes and

businesses. One witness, Judge John A. Oliphant, testified that, "Instead of protecting property, they were the chief fellows setting fires."⁵

42. Defendants used airplanes to drop incendiary materials on the streets of Greenwood.

43. Defendants' wanton acts of destruction and violations of their public duties during the Massacre did more than deprive hundreds of residents of the Greenwood neighborhood of their lives. Those who survived were robbed of their homes, personal property, livelihoods, dignity, community leaders, sense of safety, physical security, economic capital, and consequently the exercise of their right to self-determination,⁶ the basis upon which they created this successful community.

44. In allowing its police officers and deputized White residents to engage in the aforementioned conduct, City, County, and State elected leaders breached their duty to protect the security of all Tulsa residents without regard to race, and affirmatively acted to injure and endanger the comfort, repose, health, safety, lives and property of Greenwood's African American residents.

45. White people who chose to participate in this raging White mob, both City, County, and State officials and other residents, were responsible for these acts of terror.

46. The Massacre was not simply an act of domestic terrorism. It was an economic, social, and cultural human-made disaster for the Greenwood neighborhood, a community of the City of Tulsa.

47. Overnight more than 9,000 Black people were left homeless and over 1,200 homes and businesses were destroyed.

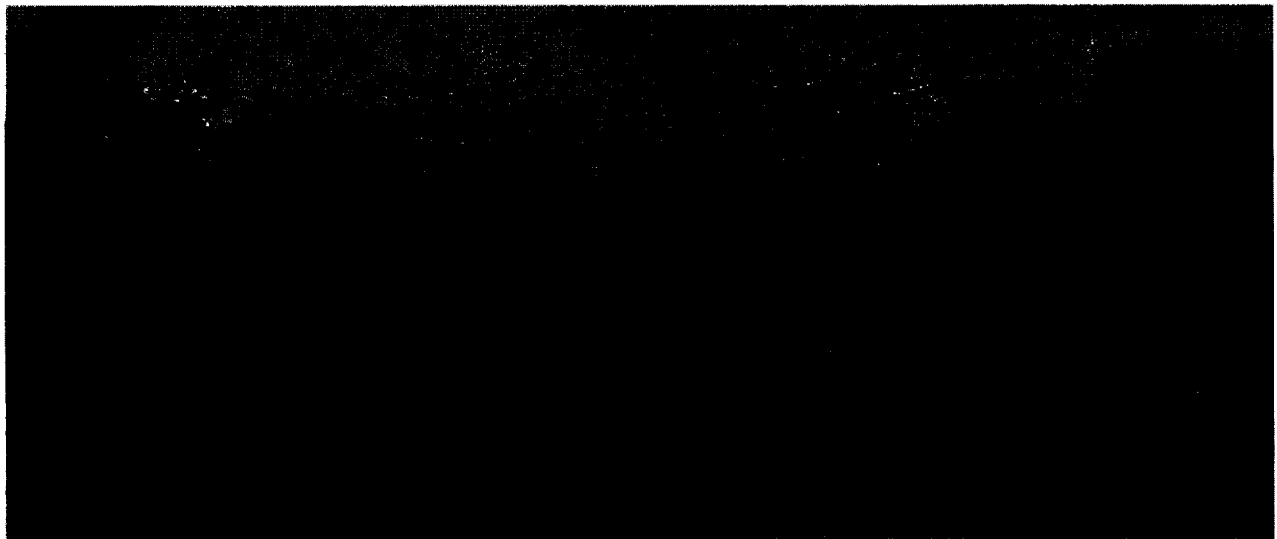
⁵ Tulsa Race Riot Commission Report, at 160 (citing Testimony of John A. Oliphant 2, Attorney General's Civil Case Files, RG 1-2, A-G Case No. 1062, Box 25 (Oklahoma State Archives)).

⁶ Okla. Const. Art. II, § 2.

48. Defendants were responsible for stealing and looting personal property worth millions of dollars.

49. Defendants' actions, in addition to murdering hundreds of Greenwood community members and destroying residences and businesses, tore families and social networks apart and destroyed its leadership structure.

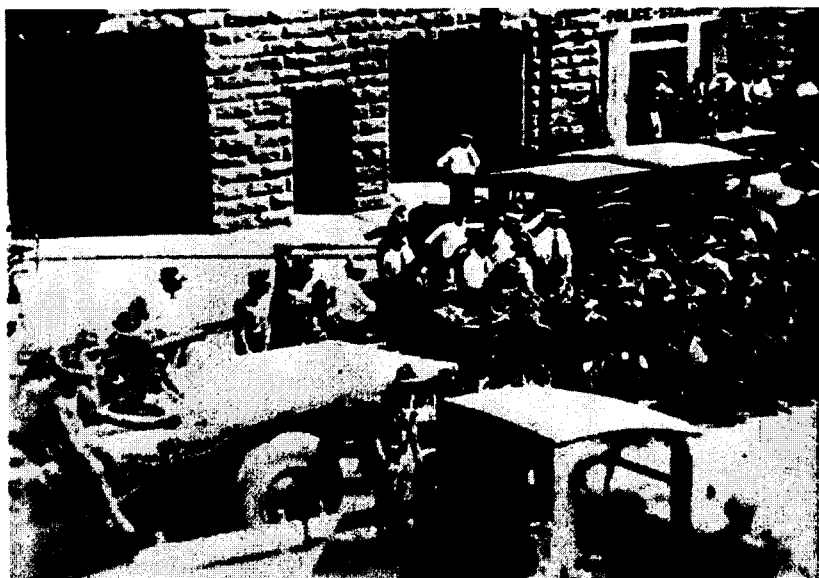
50. Estimates of the property damage alone suffered by the residents of Greenwood are between \$50-100 million in today's currency.



National Guard Joins the Angry White Mob, Participating in the Massacre

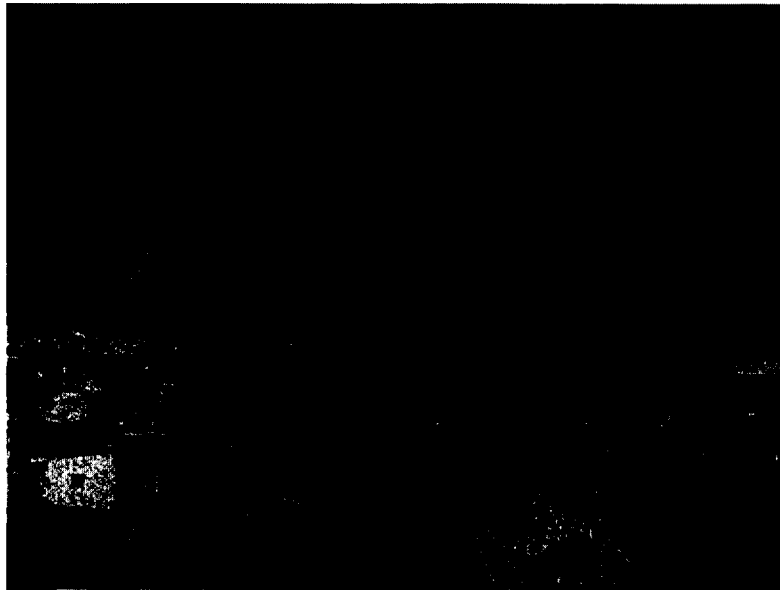
51. Local officials sought the assistance of the State National Guard. Members of the National Guard were in Tulsa early on May 31, and participated with and provided tactical and logistical support to the angry White mob. It was not until round 2:00 a.m. on June 1, 1921, that the Governor of Oklahoma declared martial law and ordered the National Guard to move against the "Negro Uprising."

52. The National Guard did not act to quell the violence directed at the residents of Greenwood. Rather, it joined the police and the angry White mob, including the newly deputized White residents. The Guard systematically rounded up African Americans during the Massacre, going so far as to kill those who would not leave their homes. The National Guard was not the savior of the African Americans, but rather intervened in the Massacre to advance the brutal, inhumane blood bath and destruction – an intervention that was pivotal to the success of the Massacre.



53. Members of the National Guard facilitated the marauding of local officials and the angry White mob. Guardsmen advanced on Greenwood and indiscriminately murdered, beat, terrorized, disarmed, and arrested African American residents and participated in setting Greenwood on fire. Brigadier Barrett, dispatched to command the National Guard, wrote, “In all my experience, I have never witnessed such scenes that prevailed in this city when I arrived at the height of the rioting. 25,000 whites, armed to the teeth, were ranging the city in utter and

ruthless defiance of every concept of law and righteousness. Motorcars bristling with guns swept through your city, their occupants firing at will.”⁷



VII. THE MASSACRE’S CONTINUING INJURIES

Trauma

54. The Massacre had and continues to have a severe impact on the comfort, repose, health, and safety of the Greenwood neighborhood and Greenwood community of Tulsa.

55. Defendants, having unlawfully and maliciously destroyed the comfort, repose, health, and safety of the Greenwood neighborhood and Greenwood community, had a duty of care to provide resources to mitigate the damage and trauma they caused. Defendants breached that

⁷ “Citizens in Mass Meeting Voice Shame Over Riots That Razed Negro Quarter.” *The New York Times*, June 3, 1921, sec. Archives. <https://www.nytimes.com/1921/06/03/archives/tulsa-in-remorse-to-rebuild-homes-dead-now-put-at-30-citizens-in.html>. (last visited Aug. 11, 2020 9:08 A.M. C.S.T.),

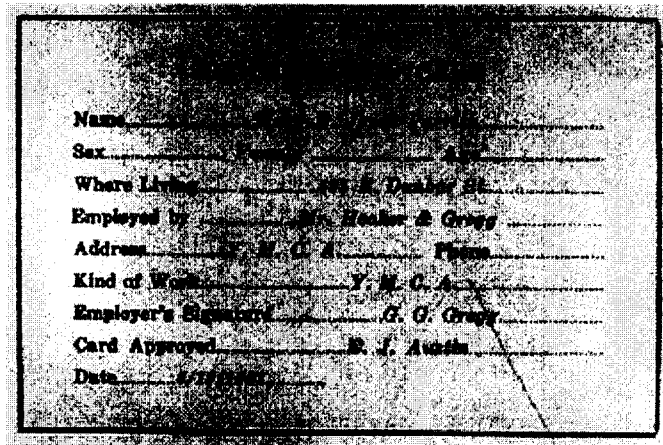
duty by instead piling trauma upon trauma through a conspiracy of silence that lasted for seventy-five years. Defendants continued, through various unlawful acts and omissions, to thwart the Greenwood community's efforts to rebuild and recapture a community that promoted residents' economic, social, physical, and financial well-being. Defendants' actions over the next ninety-nine years excluded Greenwood community members and the predominantly Black North Tulsa community members from participating in the decisions that affected their health, safety, peace, and the community's shared social, economic, and cultural affairs.

56. In the immediate aftermath of the Massacre the Chamber was given charge of Tulsa while it was under martial law. The Chamber formed the Public Welfare Board, all members of which were White. The failure to include any Greenwood residents precluded the Greenwood community from influencing public efforts at reconstruction.

57. Under the authority of the Public Welfare Board, more than 5,000 Greenwood residents were forcefully detained in what the *Tulsa World* called "concentration camps."⁸ These camps, including the Ballpark and Convention Center, were guarded by armed White men including the City's police and members of the National Guard. Members of the Greenwood Community were only able to leave these camps if a White person sponsored them, vouching for their good character. The "paroled" Greenwood community members were required to wear or carry a green card bearing their sponsor's name while out of the camp. Many Greenwood community residents were forced to work for their sponsors or for the City under threat of violence and without pay. These conditions amounted to a badge of slavery.

⁸5,000 Negroes Held in Fairgrounds Camp, TULSA DAILY WORLD, Jun. 2, 1921 (final ed.), at 2, <https://chroniclingamerica.loc.gov/lccn/sn85042345/1921-06-02/ed-1/seq-2/>. (last visited Aug. 11, 2020 9:08 A.M. C.S.T.).

58. Defendant Chamber paid for the green cards that the City of Tulsa and the State of Oklahoma's National Guard required every African American adult to carry. These green cards were adorned with the words 'Police Protection' printed on one side, and various other data recorded on the other, including the person's name, address, and employer. It has been reported that "any black found on the street without a green card properly filled out was arrested and sent back to the detention camp."⁹



59. In addition, Defendants Chamber, City, and National Guard required African Americans to work their way out of custody by cleaning up the destruction caused by the angry White mob. At some time on June 2, General Barrett issued Field Order Number 4, which decreed that "all able bodied [N]egro men remaining in detention camp at the Fairgrounds and other places in the City of Tulsa [would] be required to render such service and perform such labor as [was] required by the military commission."¹⁰ The African American Greenwood residents were treated like chattel, reminiscent of slavery.

⁹ Scott Ellsworth, *Death in a Promise Land: The Tulsa Riot of 1921*, (1982).

¹⁰ Smith, Gerald Jerome. "Race and the States' Use of Police and Military Force." *Oklahoma City University Law Review*, Spring 2002. <https://racism.org/articles/race/62-defining-racial-groups/africans-and-african-descendents/298-afram06-01>. (Last visited August 4, 2020).

Prevented Rebuilding and Expansion

60. From the Massacre until the present day, the Defendants have imposed or supported policies that stifled the ability of Greenwood residents to rebuild and thrive, except to the extent that development and preservation would benefit the parts of Tulsa that are predominantly White. Defendants continuing unlawful acts and omissions violated Greenwood and subsequently North Tulsa residents' constitutional right to equal protection under Oklahoma law, rendering them insecure in their lives and property. Defendants curtailed economic, social, and cultural opportunities in the Greenwood and North Tulsa communities, redirecting those benefits to White businesses and institutions in other parts of Tulsa, to the detriment of African Americans in Greenwood and North Tulsa, whose wellbeing in all areas of life was endangered. The Massacre and its ongoing marginalization of Black Tulsans constitute racial terrorism and inflict "deep traumatic and psychological wounds on survivors, witnesses, family members, and the entire African American community."¹¹

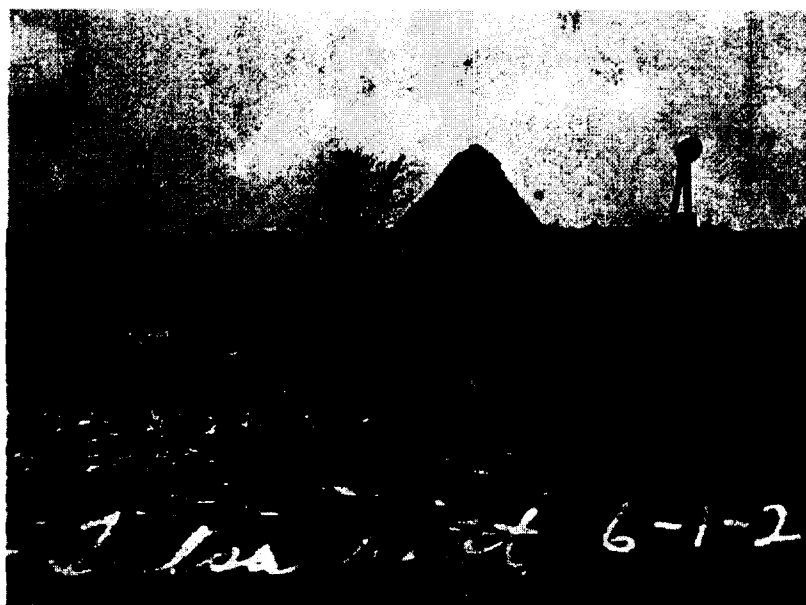
61. In the days and weeks following the Massacre, City and County officials and local White businessmen, including members of the Chamber, engaged in unlawful acts designed to prevent reconstruction of the Greenwood neighborhood and community.

62. While members of the Greenwood community of Tulsa were forcefully interned, the City and Chamber unlawfully pushed for changes in fire regulations and zoning laws that illegally deprived Greenwood community members of their property without due process of law.

¹¹ *Equal Justice Initiative*, "Lynching in America: Confronting the Legacy of Racial Terror" (3d Ed. 2017). <https://eji.org/reports/lynching-in-america/>. See the report attached herein as Exhibit 1. See also Deangolis, Tori, "The Legacy of trauma: An emerging line of research is exploring how historical and cultural traumas affect survivors' children for generations to come." American Psychology Association, February 2019. <https://www.apa.org/monitor/2019/02/legacy-trauma>. (Last visited August 26, 2020).

63. Many Greenwood residents lived on the sites of the internment camps for over a year in squalid conditions while awaiting reconstruction.

64. The zoning change, eventually declared unlawful by the Oklahoma Supreme Court, made reconstruction efforts prohibitively costly for Greenwood residents. The Oklahoma Supreme Court struck down the zoning ordinance in response to an expensive and time-consuming lawsuit brought by Massacre survivors that further drained their limited resources for rebuilding. The unlawful ordinance caused months-long delay in the rebuilding efforts. Defendants' unlawful actions left survivors of the Massacre to live in makeshift tents as their shelter into the winter, subjecting them to cold, filth and disease for up to a year after the Massacre.



65. The Massacre injured the reputation and standing of the whole of Tulsa. To cover up the true nature of the destruction and mitigate the public relations disaster caused by the Massacre, the City and Chamber colluded in a campaign to cover up the true nature of the destruction of Greenwood, characterizing the Massacre as a "race riot" to misrepresent the attack and extent of the damage. In a statement to the local newspaper, Alva J. Niles, President of Defendant

Chamber at the time, blamed the Massacre on “a group of negroes exhibiting a spirit of lawlessness.”¹²

66. The City and Chamber, through the Public Welfare Board, affirmatively rejected monetary aid from around the country that was intended to assist those who had been displaced as a result of the Massacre.

67. Their material misrepresentations also prevented Greenwood residents, including business owners, from collecting on insurance policies, leaving them no choice but to use any savings and capital they had or undertaking exorbitant debt to rebuild.

68. The County convened an all-White Grand Jury to determine whether there should be indictments related to the Massacre. This Grand Jury only indicted residents of Greenwood for causing the Massacre - people who had had their homes and businesses destroyed by the angry White mob. The Grand Jury also called for more aggressive policing of Black people in Greenwood which continues to this day.

69. As a result, the Greenwood community suffered economic ruin, which robbed Greenwood descendants of their rightful inheritance, and the wealth and financial security they would have had but for the actions of Defendants.

Defendants Continued to Support Acts that Undermined the Safety and Security of Greenwood Immediately After the Massacre

70. In the years following the Massacre the Defendants continued to support the Greenwood Community being terrorized by racist threats in the form of the Ku Klux Klan (“KKK”). The Defendants participated in overt public displays by the KKK. In fact, all five of the men who

¹² “Okla. Historian, Hannibal Johnson, Gives Annotation of 1921 Tulsa Chamber Meeting Minutes.” *The Black Wall Street Times*, June 30, 2020. <https://theblackwallstimes.com/2019/05/28/okla-historian-hannibal-johnson-gives-annotation-of-1921-tulsa-chamber-meeting-minutes/>. (Last visited August 4, 2020).

incorporated the Tulsa KKK in January 1922 were prominent leaders of the City, County, and Chamber. Just two months later in March 1922, Greenwood resident John Smitherman, brother of A.J. Smitherman, was kidnapped, beaten, and mutilated by the Tulsa KKK. John Smitherman's "crime" was registering Greenwood residents to vote. No one was charged or arrested for the attack on John Smitherman. The Defendants knew that some of their officers and employees were active in the Tulsa KKK, enhancing the sense of insecurity caused by the Massacre that continues to this day for Black Tulsans.



71. In 1923, Defendants again used zoning laws to impede the reconstruction of the Greenwood neighborhood. Defendants enacted a comprehensive zoning plan that designated Greenwood for industrial uses, while Black Tulsans, due to racially discriminatory laws and City sanctioned practices, were prohibited from moving outside the Greenwood neighborhood. This caused overcrowding in the decades that followed. Defendants' unlawful acts and omissions drove up rent prices and mortgage rates to levels most Greenwood residents could barely afford.

For residents of the Greenwood neighborhood, housing costs became an outsized portion of their budgets. Due to the high costs of loans and lack of basic resources to repair, many homes in Greenwood were virtually makeshift shacks.

72. In the 1930s, 1940s, and 1950s, Defendant City and County unlawfully neglected their duty to provide public services, utilities, and amenities to the Greenwood neighborhood, such as paved streets, running water, sewers and regular trash pickup, or a comparable number of parks and playgrounds. In 1958, the Tulsa Urban League published a report entitled "*A Concise Review of Housing Problems Affecting Negroes In Tulsa*" that documents these concerns.¹³

73. Defendants' unlawful acts and omissions in the years and decades following the Massacre blighted the Greenwood neighborhood, endangering the health and safety of the Greenwood community. The City's unlawful acts and violations of duty led to a lack of adequate and code-compliant housing during the 1950s that continues to this day. The City, after participating in the burning and looting of Greenwood, refused to enforce housing codes, and thereby neglected their duty to provide assistance to Greenwood homeowners at that time to make needed repairs. Its unlawful acts and violations of its municipal duties made houses prone to rapid deterioration and led to substandard conditions and blight that threatened the health, comfort, and safety of the Greenwood neighborhood and North Tulsa community and rendered them insecure in their lives and property.

74. Defendants' interference with investment in the Greenwood and North Tulsa community and neighborhood, which began after the Massacre, continues to this day. There is still no viable public infrastructure in these communities. For example, the City has yet to replace structures

¹³ Tulsa Urban League, *A Concise Review of Housing Problems Affecting Negroes In Tulsa*, utulsa.as.atlas-sys.com/repositories/2/archival/objects/85594 (ed., 1958).

and other institutions destroyed during the Massacre. Since the Massacre, Defendants have oppressed and undermined the predominantly Black North Tulsa community in Tulsa, diverting resources to other communities to the detriment of the health, safety, and security of the Black community in Tulsa. Defendants have failed to provide material support for rebuilding the Black businesses, homes, schools, and hospital and recapturing the wealth and ready access to services destroyed in the Massacre. Instead, Defendants continue to neglect their obligation to abate the nuisance they created to the detriment of the Greenwood and North Tulsa communities, rather, focusing on providing opportunities for overwhelmingly White-owned and run businesses, organizations, and nonprofits.

75. The latest version of the City's business plan is to profit off the Massacre by turning it into a tourism attraction and primarily White-owned commercial hub.

76. In addition to the direct economic losses that resulted from the Massacre, the Greenwood community suffered other severe losses that destroyed the integrity of the community and contributed to the public nuisance that continues today.

Destroyed Leadership

77. Defendants' actions during the Massacre and its aftermath destroyed the Greenwood community's leadership. The mob murdered professionals and business owners who contributed to the community's prosperity, such as nationally renowned surgeon Dr. A.C. Jackson. Dr. Jackson was a prominent Greenwood resident who was brutally shot on June 1, 1921, by members of the angry White mob deputized and armed by the City of Tulsa while coming out of his home, hands raised. He bled to death while imprisoned at the Convention Center by Defendants.



78. The City and the *Tulsa Tribune* encouraged the formation of a grand jury that targeted twenty-seven Greenwood community leaders, including Gurley, Smitherman and Stradford. The resulting indictments forced Smitherman, Gurley and Stradford, along with others, into permanent exile. Many other Greenwood leaders fled the state. And even more of its leadership and those who were key to its economic viability, including doctors, lawyers, teachers, nurses, businesspeople, skilled and blue-collar workers needed to make the community thrive, left Greenwood because the Massacre destroyed community businesses and institutions that provided them with employment.

79. From the 1920s and continuing to the present day, Defendants' unlawful acts and violations of their duties have prevented the African American members of the Greenwood and North Tulsa communities from occupying top level leadership positions in City government.

80. During the 1930s, the City, with the support of the Chamber, engaged in more extensive racial segregation in public employment than any other southern and southwestern city. For example, unlike other Southern cities, Tulsa did not hire any African Americans for public

service jobs with the exception of those hired as police for the Greenwood community or teachers in the segregated school system.

81. Similarly, in the 1920s through the 1960s, the City and the Chamber unlawfully excluded the few African American businesses run by members of the Greenwood and North Tulsa communities from participation in business opportunities.

82. The Chamber excluded Greenwood and North Tulsa Black-owned businesses in its publicity materials commemorating Oklahoma's fiftieth anniversary.

83. In addition to the Chamber's significant involvement in creating the public nuisance stemming from the Massacre, the Chamber has not taken any affirmative action to abate the nuisance. The City and County continued their practices of limiting employment opportunities for African Americans. In the 1970s African Americans were predominantly in lower-level jobs. Few African American members of the Greenwood and North Tulsa communities were appointed to managerial positions that would enhance the stature of the community and permit the Greenwood and North Tulsa communities to have some measure of control over the future of their neighborhoods.

84. The Chamber, County, and City continue to deny African American businesses in the Greenwood and North Tulsa communities an equal voice by excluding their representatives from leadership positions and on decision-making bodies that determine economic and social policy for Tulsa, including the Greenwood and North Tulsa communities.

Destroyed Neighborhood and Community Integrity 1921 to Present

85. Defendants' continuous unlawful acts and persistent neglect of required duties towards the Greenwood neighborhood and community laid the fertile ground for the effects of the

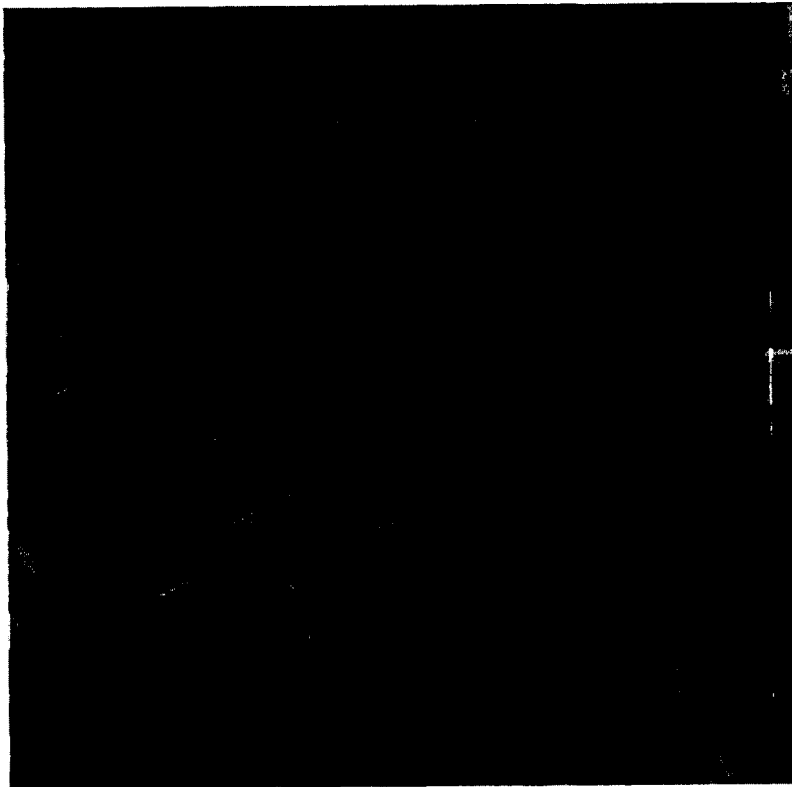
nuisance created by the Defendants to not only be experienced in the Greenwood community and North Tulsa, but to follow Black Tulsans who migrated from these communities, either by choice or through acts of the Defendants, to other parts of Tulsa. These unlawful acts and persistent neglect of governmental duties include the continuous dispossession and taking of land owned by Greenwood residents, blighting the Greenwood and North Tulsa neighborhoods and community by causing a steady decline of the Greenwood and North Tulsa property values, the fragmentation of the Greenwood and North Tulsa neighborhood and community by placement of a highway that physically divided it, and the destruction of a base of professionals and entrepreneurs who lived and worked in Greenwood and North Tulsa. Defendants, on the other hand, made it possible for property values in predominantly White South Tulsa to appreciate, new housing and commercial developments to sprout, and White professional and entrepreneurial residents to maintain their base in South Tulsa.

86. Throughout the 1950s, 1960s, and 1970s, Defendants City, County, and Chamber, acting through TDA and the Planning Commission, implemented or promoted policies of “urban renewal” and urban planning initiatives without regard for the health and safety needs of the Greenwood community and Black Tulsans. Defendant’s unlawful failure to include the Greenwood and North Tulsa communities in the decision-making process ensured any urban renewal plan would not serve these communities but rather would serve the interests of the predominantly White South Tulsa residents.

87. This failure exacerbated nuisance conditions in the Greenwood and North Tulsa neighborhoods. The initiatives adopted by Defendants and their actions pursuant to them including unlawfully taking land from Black Greenwood for less than market value, led to

further fragmentation of the Greenwood community and deepened Tulsa's geographical, racial and wealth divide that still exists today.

88. In the 1960s and 1970s, Defendants unlawfully harmed the health and safety of the Greenwood and North Tulsa community by deciding that the location of Interstate 244 and the construction of the inner dispersal loop would go through the middle of the Greenwood community and neighborhood, despite other viable alternatives.



89. That placement continued Defendants' practice of isolating and fragmenting the Greenwood and North Tulsa communities from the rest of the city. The Interstate divided the Greenwood neighborhood and community in two, creating a physical barrier between the North side, which had an overwhelmingly Black population, from the rest of the city, and displaced

many families and businesses.¹⁴ A May 4, 1967 article in the *Tulsa Tribune* states, “The crosstown expressway slices across the 100 block of North Greenwood Avenue, ... There will still be a Greenwood Avenue, but it will be a lonely, forgotten lane ducking under the shadow of a big overpass.”¹⁵

90. Defendants used their urban renewal powers to take property from Greenwood residents for projects that provided no direct benefit to them—for example, the sprawling *University Center at Tulsa* (now *Oklahoma State University-Tulsa*¹⁶) pictured below. This taking perpetuated the Defendants’ acts that diminished the enjoyment by Greenwood residents of their property and further eroded Greenwood’s tax base negatively affecting residents, businesses, and schools in the Greenwood and North Tulsa Community.

¹⁴ A May 2020 report by the internationally acclaimed Human Rights Watch found that Defendants’ disparate use of Urban Renewal powers “claimed and demolished so many businesses and homes in Tulsa, more than 1,000, many of them in Greenwood, that black Tulsans would come to call urban renewal “urban removal...this led black Tulsans to move north, east, and west—but with few exceptions, not to the more prosperous neighborhoods south of the railroad tracks.” See, *The Case for Reparations in Tulsa, Oklahoma A Human Rights Argument*, <https://www.hrw.org/news/2020/05/29/us-provide-reparations-1921-tulsa-race-massacre>.

¹⁵ Joe Looney, “Greenwood Fades Away Before Advance of Expressway,” *Tulsa Tribune*, May 4, 1967, <http://cdm15020.contentdm.oclc.org/cdm/singleitem/collection/p16063coll1/id/439/rec/18> (Last visited August 4, 2020).

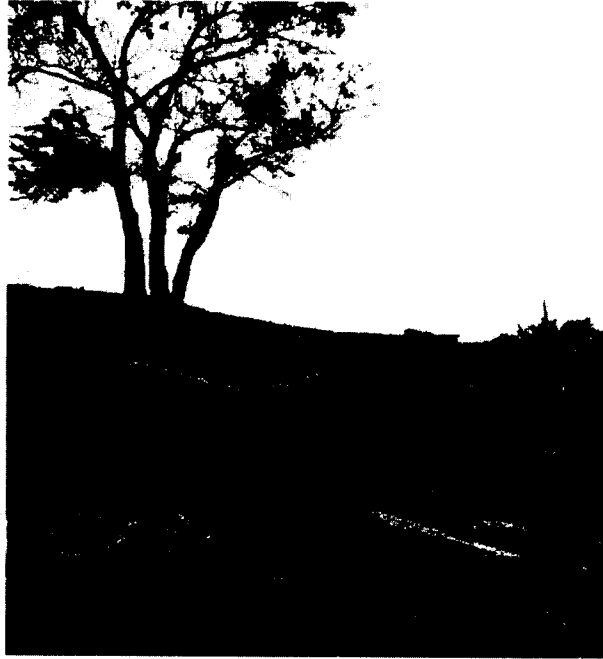
¹⁶ Not only is the Oklahoma State University-Tulsa Board of Trustees devoid of any Massacre or Greenwood descendants, the Oklahoma State University Board of Trustees is all-White. ¹



91. These initiatives only further exacerbated Defendant-created disparities in education, policing, housing, poverty, and health outcomes, rendering members of Tulsa's African American community insecure in their lives and property, and annoying, injuring, and endangering Greenwood and North Tulsa residents in their comfort, repose, health, and safety.

92. An August 1977 report by the *Oklahoma Advisory Committee to the U.S. Commission on Civil Rights* describing North Tulsa, which includes the Greenwood District, found that the Tulsa "Black population is concentrated mainly in the northern part of the city [Tulsa]. At the present time, this section of Tulsa is experiencing a decline in property values, an increase in housing abandonment, and loss of business...increasingly the...northern sections of the city are being forsaken. Conversely, the southeastern part of Tulsa has prospered and is experiencing a tremendous growth in housing."

93. By 1980, very little remained of the original Greenwood community. At the same time, Greenwood and North Tulsa residents had the worst outcomes in every conceivable social-economic category, including housing, education, employment, and mental and physical health, in addition to the continuing racially disparate treatment by Tulsa law enforcement.



94. Throughout the 1980s, Defendants continued to injure and endanger the comfort, repose, health, and safety of the Greenwood neighborhood and community that first began during the Massacre. In 1989, then- Tulsa School Board member Judy Eason-McIntyre lamented that the hardships Black Tulsans endured were caused by “years of discrimination...dating back to Tulsa’s race riot in 1921...” These “years of discrimination” perpetuated the public nuisance created in 1921 that continues to destroy the lives of North Tulsa and Greenwood residents.

95. The Defendants had a duty to rebuild the Greenwood neighborhood that they destroyed in 1921. Rather than fulfilling this duty, they consistently underserved the Greenwood and North Tulsa communities throughout the 1990s and 2000s. They did not use federal funding, programs, and services to which they had access in the Greenwood neighborhood and North Tulsa community to enhance these communities’ ability to thrive.

96. The racially disparate health outcomes, including life expectancy,¹⁷ chronic diseases and infant deaths, as well as other negative health outcomes documented in the 2000s flow from the public nuisance created by Defendants.

97. Defendants have continued the public nuisance in the Greenwood neighborhood and North Tulsa communities by making them less viable for commercial activity, threatening the health and safety of the Greenwood and North Tulsa communities by depriving North Tulsans of easy access to meet their basic needs, like grocery stores, schools, and hospitals, all of which the rest of Tulsa enjoyed. Current Chamber President and CEO Mike Neal stated “the racism that enabled the massacre also shaped the economic disparities in our community.”¹⁸

98. There is now an established consensus among medical professionals that such disparities in access to the resources that enable well-being, like nutritious food and primary care providers, threatens community health. The American Academy of Pediatrics, the American Medical Association, and the American College of Emergency Physicians recently formally declared “institutional racism an urgent public health issue”¹⁹ and states and cities around the country are beginning to declare racism a public health crisis.

¹⁷ In 2018 Mayor Bynum stated “For this generation of Tulsans, the great moral issue we face is in resolving the racial disparities that have been allowed to persist in our city for far too long. In 1921, Tulsa was the site of the largest race massacre in United States history. Hundreds of Black Tulsans were killed and businesses were destroyed in Tulsa’s Greenwood District – a place known around America at that time as Black Wall Street. Today, a child born in the most predominantly Black part of our city has a life expectancy that is 11 years shorter than a child born elsewhere in Tulsa.” See, <https://www.cityoftulsa.org/media/7673/resilient-tulsa-digital-web.pdf>. (Last visited August 4, 2020).

¹⁸ “Chamber Donates Meetings Minutes From 1921 to Greenwood Cultural Center.” Tulsa Regional Chamber, May 28, 2019. See, <https://tulsachamber.com/news/2019/05/28/community-development/chamber-donates-meeting-minutes-from-1921-to-greenwood-cultural-center/>. (Last visited August 4, 2020).

¹⁹ Vestal, Christine. “Racism Is a Public Health Crisis, Say Cities and Counties.” The Pew Charitable Trusts, June 15, 2020. See, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/15/racism-is-a-public-health-crisis-say-cities-and-counties> (Last visited August 4, 2020).

99. As a direct and proximate result of the Massacre and the Defendants' continued unlawful actions described above, Black Tulsans face disparate treatment and outcomes with respect to every single basic human need: jobs, financial security, education, housing, justice, and health, both mental and physical health, that annoys, injures, or endangers their comfort, repose, health, or safety and renders them insecure in life, or in the use of their property. Examples of how the nuisance, caused and perpetuated by the Defendants, has imperiled the lives of Black Tulsans are documented by the City in its *2019 Tulsa Equality Indicators Annual Report*,²⁰ and include:

- a. **Jobs.** Unemployment in Tulsa's Black community is more than twice that of unemployment among White Tulsans.
- b. **Financial Security.** The median household income of White residents of Tulsa is over \$20,000.00 more than that of Black residents of Tulsa. Significantly more Black residents of Tulsa live at or below the poverty line than White residents.
- c. **Education.** Black students are nine times more likely than White students to be suspended from school.
- d. **Housing.** Fifty-eight percent of White adults own their homes, compared to only 34.8% of Black adults.

²⁰ The findings of the Tulsa Equality Indicators Annual Reports only further documented that the nuisance created by the 1921 Race Massacre continues to hinder and harm Black Tulsans and the Greenwood community. See, Tulsa Equality Indicators Ann. Rpt. (2019) https://www.tulsaei.org/wp-content/uploads/2019/07/Tulsa-Equality-Indicators-Report_2019.pdf (last visited August 10, 2020). It should be noted that in response to the City of Tulsa's *2018 Equality Indicators Annual Report* the NAACP Legal Defense Fund and over fifty local community, elected, and religious leaders sent a letter to Mayor Bynum and the Tulsa City Council demanding reforms be immediately implemented. The letter stated, "it is simply unacceptable to acknowledge racial inequities in City report and do little to nothing to address them." To date none of the reforms requested in the letter have been implemented.

- e. **Justice.** The arrest rate of Black youth is nearly three-and-a-half times that of White youth. Likewise, the arrest rate of Black adults is over twice that of White adults. Blacks Tulsans are one-and-a half times more likely to be victims of police use of force than White Tulsans and are five times more likely to be victims of officer use-of-force than all other racial and ethnic groups.
- f. **Health.** The rate of infant mortality among Black Tulsans is over four times that of the rate among White Tulsans.

VIII. EXPLOITATION OF THE MASSACRE FOR DEFENDANTS' GAIN AT PLAINTIFFS' EXPENSE

100. The Defendants City, County, Chamber, Sheriff, and National Guard participated in the Massacre that destroyed the Greenwood neighborhood and community and in the discriminatory schemes to thwart the complete rebuilding of Greenwood. They have and still actively participate in schemes to prevent Greenwood's full reconstruction and harm North Tulsa's residential and business communities. Yet, Defendants are now appropriating the trauma and terror suffered by the survivors and descendants of the Tulsa Massacre for their economic benefit at Plaintiffs' expense.

101. Defendants have appropriated the history of the Massacre, using the names and likenesses of survivors and descendants of Massacre victims, to exploit the horrific event in which they actively participated and the subsequent trauma they caused and which continues to this day. Their purpose is to promote tourism and economic development by appropriating the name "Black Wall Street," along with its cultural and historical significance and through use of the names and likenesses of survivors—predominantly for the benefit of White-owned or controlled Tulsa businesses and organizations. Their appropriations not only result in their

unjust enrichment; but rather than offering an apology and compensation for the damages they caused, they are exacerbating the pain of the continued trauma they caused. For example, Tulsa Mayor Bynum on May 31, 2020, during a televised program about the Tulsa Race Massacre, shared the story of Dr. A.C. Jackson, without apology to Jackson's heir M. Adams or acknowledgment of a debt owed to M. Adams or the Jackson family.

102. The Defendants are working to bring business to Tulsa using the Massacre and Black Wall Street as a "cultural tourism" draw. The problem is not that the Defendants want to increase the attraction to Tulsa, it is that they are doing so on the backs of those they destroyed, without ensuring that the community and descendants of those subjected to the nuisance they created are significantly represented in the decision-making group and are direct beneficiaries of these efforts. This exclusion appears intentional, not a happenstance.

103. The Defendants City, Chamber and County are partnering in the development of a "cultural tourism" district that includes the \$30 million *Greenwood Rising History Center*. The Black residents of Greenwood and North Tulsa and survivors and descendants of those who were killed or suffered losses in the 1921 Massacre are not guaranteed any income producing and generating role in the project.

104. The Defendants' exploitation of the death, destruction, and disparities they created and perpetuated for financial gain and failure to address the public nuisance they created that caused significant injuries to the Greenwood neighborhood and North Tulsa community, have resulted in their unjust enrichment at the expense of these communities and worsened the racial disparities including the wealth divide.

IX. CLAIM # 1: PUBLIC NUISANCE

All Defendants

105. Plaintiffs restate and incorporate paragraphs 1 through 104 as if fully set forth herein.

106. Defendants' above-described unlawful acts and omissions injured Plaintiffs and the Greenwood and North Tulsa communities, endangered their comfort, repose, health, and safety and rendered them insecure in life and in the use of their property.

107. The above-described unlawful acts and omissions constitute a public nuisance, and such nuisance has affected the entire Greenwood community and the Black population of North Tulsa more generally.

108. Defendants' actions and violations of duty that caused the nuisance in the Greenwood and the North Tulsa communities accelerate aging, shorten life expectancy²¹ and cause Black Tulsans to experience significant psychological and emotional injury.

109. Oklahoma statutes define a "nuisance" as "unlawfully doing an act, or omitting to perform a duty, which act or omission . . . annoys, injures or endangers the comfort, repose, health, or safety of others . . . or . . . [i]n any way renders other persons insecure in life, or in the use of property" ²²

²¹ Liam Knox, *New Study Shows Racism May Shorten Black Americans' Lifespans*, NBCNEWS.COM (Feb. 5, 2020, 2:06 P.M.), <https://www.nbcnews.com/news/nbcblk/new-study-shows-racism-may-shorten-black-americans-lifespans-n1128351>; David H. Chae, *et al.*, *Racial Discrimination and Telomere Shortening Among African Americans*, 39 HEALTH PSYCH. 209 (2020), available at <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fhea0000832> (last accessed Feb. 10, 2020, 1:38 P.M.); Sierra E. Carter, *et al.*, *The Effect of Early Discrimination on Accelerated Aging Among African Americans*, SCIENCE DAILY.COM (Sept. 30, 2019), <https://www.sciencedaily.com/releases/2019/09/190930161920.htm> (last accessed Feb. 10, 2020, 1:42 P.M.).

²² 50 O.S. § 1.

110. A nuisance is public, as opposed to private, if it “affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.”²³

111. The public nuisance, as described above, is continuing, and has resulted in an obstruction of public rights including, but not limited to, the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of one’s own industry, the right of equal protection under the law, the right not to be placed in harm’s way by Defendants’ affirmative actions, the right to security in health, the right to access public roads and thoroughfares, and the right to enjoy reasonable use of property as guaranteed under the Oklahoma Constitution. Accordingly, “[n]o lapse of time can legalize” the nuisance described herein.²⁴

112. As a direct and proximate result of the Massacre and the unlawful actions and omissions of Defendants since the Massacre, Greenwood and North Tulsa Community residents continue to face racially disparate treatment and City-created barriers to basic human needs, including jobs, financial security, education, housing, justice, and health that annoy, injure, or endanger their comfort, repose, health, or safety and render them insecure in life, or in the use of their property.

113. Plaintiffs, who are African American residents and organizations of the Greenwood and North Tulsa communities, or descendants of previous residents, have suffered injuries that are unique to their status and their injuries are substantial in nature. Thus, Plaintiffs have authority to bring this claim against Defendants for abatement of the public nuisance they created and to be compensated for the injuries they caused to Plaintiffs.

²³ 50 O.S. § 2. In Oklahoma, “the nuisance or wrong does not have to affect the government or the entire community of the state to be a public nuisance.” L. Mark Walker & Dale E. Cottingham, *An Abridged Primer on the Law of Public Nuisance*, 30 Tulsa L.J. 355, 358 (1994) (citing *Finkelstein v. City of Sapulpa*, 234 P. 187 (Okla. 1925)).

²⁴ 50 O.S. § 7.

X. CLAIM # 2: UNJUST ENRICHMENT

Defendants City, County and Chamber

114. Plaintiffs restate and incorporate paragraphs 1 through 113 as if fully set forth herein.

115. Defendants by their purported efforts to revitalize the Greenwood neighborhood and community, known as the “Black Wall Street,” have appropriated the historic reputation of “Black Wall Street” to their own financial and reputational benefit.

116. Defendants actively engaged in the destruction of the Greenwood District and its viability, prosperity, and national acclaim. It is inequitable for the Defendants to retain the benefits they receive from marketing Black Wall Street rather than providing those benefits to the Black residents and businesses in the Greenwood District and North Tulsa, with top priority placed on those who are descendants of the Black residents who resided in the Greenwood District at the time of the Massacre.

XI. PRAYER FOR RELIEF

Plaintiffs pray this Court will grant the following:

1. A declaration that Defendants’ policies, actions, and omissions during and after the 1921 Massacre created a public nuisance as defined by Oklahoma law and that said public nuisance is on-going and a public health emergency.
2. A declaration that the public nuisance created by Defendants is capable of being abated through the expenditure of money and labor.
3. A declaration that the National Guard’s conduct contributed to the creation of the nuisance.

4. A declaration and order of abatement of the public nuisance by Defendants including all costs necessary to abate such nuisance.
5. A declaration that the deployment of the national guard in 1921 was inconsistent with its charter.
6. An injunction prohibiting Defendants from using the likenesses of victims of the Massacre, or of individuals and businesses destroyed in the Massacre, to their benefit without fair and equitable compensation to the descendants of those likenesses; and if there are no living descendants, payment into the Tulsa Massacre Victims Compensation Fund (“Victims Compensation Fund”) created herein.²⁵
7. An injunction to prohibit the Defendants from receiving any monies or financial benefit from the Greenwood Rising facility. Any monies designated for Defendants shall be placed in the Victims Compensation Fund.
8. An injunction prohibiting Defendants receiving any money or other material benefits from appropriating the legacy of the Massacre and the reputation of the Greenwood District and neighborhood. Any fees or revenue due the Defendants associated with providing licensing or other services to private or public groups to implement this appropriation, including the Greenwood Rising History Center, shall be placed in the Victims Compensation Fund.
9. An accounting of the unjust enrichment Defendants received by appropriating the historic reputation and legacy of the Massacre and the ongoing nuisance to its benefit while causing the nuisance and neglecting to repair the injuries caused to the

²⁵ Plaintiffs propose creation of a fund modeled after those compensating victims of other mass casualty events such as the fund created for victims of the September 11, 2001 terrorist attacks.

Greenwood District, and subsequently North Tulsa, by its breach of its fiduciary duty to the residents of Greenwood and North Tulsa. The accounting shall include:

- a. All money raised by the Defendants, through private and public sources, since 2010 from marketing of the Greenwood District and neighborhood, or North Tulsa, as the site of the Massacre.
- b. All money received by the Defendants, from public and private sources, for use in the Greenwood neighborhood and community from June 1, 1921 to 1960.
- c. All money received by the Defendants from public and private sources for use in North Tulsa from 1960 to the present.²⁶
- d. All benefits, including money, Defendants received from licensing private groups to engage in the appropriation of Black Wall Street and the Massacre.
- e. All money dispersed by the Defendants to residents of the Greenwood neighborhood and North Tulsa, or their descendants, to abate the nuisance from May 31, 1921 to the present. This should not include money for which eligibility is given to all Tulsa residents.
- f. All money disbursed to directly benefit the Greenwood neighborhood and community, subsequently North Tulsa, from May 31, 1921 to the present.
- g. The value of the loss of life in the Greenwood neighborhood and subsequently North Tulsa, as determined by licensed professional actuaries based upon published mortality tables that can be reasonably attributable to Defendants'

²⁶ Specifically, monies received from public and private sources for use in zip codes 74106, 74126, 74130.

actions in causing the nuisance, including those who were killed on May 31 and June 1, 1921 to the present.

h. The value of the loss of private personal property stolen and looted from Greenwood residents by Defendants from May 31, 1921 to the present.

i. The value of all claims made by survivors after the Massacre, whether to private companies or to the City, County, and State of Oklahoma.

j. The value of the emotional and psychological trauma inflicted on the residents of Greenwood, subsequently North Tulsa, by the nuisance created by Defendants.

k. The difference in property values pre-Massacre and every ten (10) years subsequent to the Massacre of property owned by residents of Greenwood and North Tulsa.

l. The value of property lost due to Defendants' actions, including Defendants' policies and practices, from May 31, 1921 to the present.

m. An audit of land records of property owned by residents of Greenwood on May 30, 1921, and purportedly owned by them or their descendants on June 2, 1921, and thereafter to ensure all proper title and ownership.

n. An assessment of the current value of the Greenwood District, both the one destroyed in 1921 and the one that has been renamed by the Defendants, and neighborhood including the realization of its 1921 potential but for Defendants' actions, including Defendants' policies and practices.

10. Creation of the Victims Compensation Fund in which the valuation of the unjust enrichment derived from the accounting shall be placed as well as all monies determined by the Court to be necessary for the abatement of the nuisance based upon the accounting outlined in paragraph 9 above. These funds shall be used for the sole benefit of survivors of the Massacre, Descendants of those killed, injured, or lost property in the Massacre, and residents of the Greenwood and North Tulsa Community who have lived in Greenwood or North Tulsa for at least 10 years, five of which are consecutive, or were displaced from these communities at any time from May 31, 1921, until the present in that order.
11. Abating all the conditions in the Greenwood neighborhood and North Tulsa that are aspects of the nuisance created by Defendants as demonstrated by the evidence presented in this matter and not addressed by any other demand in this prayer for relief including but not limited to:
 - a. Payment of all outstanding claims presented by Greenwood residents as a direct result of losses sustained in the Massacre that were denied by Defendants or insurance companies.
 - b. Property development, including purchase of business and residential property and repairs and upgrading of existing property, in the Greenwood neighborhood or North Tulsa.
 - c. Development of mental health and educational programs by individuals who live in Greenwood or North Tulsa for residents of Greenwood and North

Tulsa; or organizations with 75% of their leadership consisting of individuals who live in Greenwood or North Tulsa.

d. Development of a quality of life program for individuals who live in Greenwood or North Tulsa for emergency needs related to maintaining employment, medical emergencies, and home maintenance

e. Creation of a land trust into which all vacant or undeveloped land in the historical Greenwood neighborhood and North Tulsa community currently owned by Defendants will be placed. Residents who are descendants of those who lost homes or businesses in the Massacre shall be able to receive a parcel as close to the size that was destroyed in the Massacre or taken for less than fair market value during urban renewal.

f. Construction of a Level 1 Trauma Center hospital, including an urgent care center, in Greenwood, in which Greenwood and North Tulsa residents are given top priority for employment at all levels, that is named after and dedicated to the Massacre murder victim and nationally acclaimed surgeon, Dr. A.C. Jackson.

g. Immunity from all City of Tulsa and County of Tulsa taxes, fees, assessments, and/or utility expenses for the next 99 years for residents of the City of Tulsa or Tulsa County who are Massacre descendants. descendants of those who were killed, injured or lost property in the Massacre.

h. Creation of a scholarship program for Massacre descendants of the Greenwood District who lived in Greenwood on May 31, 1921 or for at least 10

years, with at least five years consecutive, between May 31, 1921, and until the present. The scholarship shall pay tuition, room and board, books, and fees to attend a university, college, or other post high school education or training institution in Oklahoma. This program shall last 99 years.

i. Black Tulsans who live in the Greenwood neighborhood and North Tulsa communities shall have top priority and fair representation reflective of their percentage of the Tulsa population, among recipients of City contracts, with those who are descendants of Massacre victims having the highest priority for the next 99 years.

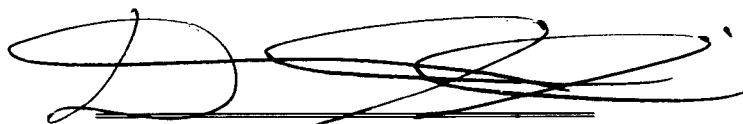
12. The plaintiffs shall be awarded punitive damages as allowed by law. These punitive damages shall be added to the Tulsa Massacre Victims Compensation Fund.

13. The plaintiffs shall be awarded attorneys' fees and expenses.

14. The plaintiffs shall be awarded any and all further relief this Court deems just and equitable, including as well as pre-judgment and post-judgment interest at the appropriate lawful rate.

Respectfully submitted,

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²⁷ Reinstatement to active status from retired status pending.

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