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IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

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DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

LESSIE BENNINGFIELD RANDLE *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
 CITY OF TULSA *et al.*,)
)
 Defendants.)

Case No. CV-2020-01179
Division G
The Honorable Caroline Wall

**MOTION TO DISMISS AND BRIEF IN SUPPORT OF DEFENDANTS'
BOARD OF COUNTY COMMISSIONERS FOR TULSA COUNTY AND
VIC REGALADO, IN HIS OFFICIAL CAPACITY AS SHERIFF OF TULSA COUNTY**

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MOTION TO DISMISS AND BRIEF IN SUPPORT

Defendants Board of County Commissioners for Tulsa County (“BOCC”) and Vic Regalado, in his official capacity as Sheriff of Tulsa County (“Sheriff”) hereby move the Court to dismiss the Petition of Plaintiffs, pursuant to OKLA. STAT. tit. 12, § 2012(b)(6). In support of their Motion to Dismiss, Tulsa County and the Sheriff provide the following Brief in Support.

BRIEF IN SUPPORT OF MOTION TO DISMISS

I. INTRODUCTORY STATEMENT.

The Tulsa Race Massacre represents a dark moment in the history of our country. 100 years later, it is difficult to comprehend the epoch of hate, fear, and distrust that surely fueled the tragic and heartbreaking events of 1921. This Motion to Dismiss does not seek to minimize the tragedy of the Tulsa Race Massacre. The Plaintiffs initiated this legal proceeding in which the rule of law applies. It is the rule of law that places today’s BOCC and Sheriff Regalado into the shoes of their predecessors of a century ago. But, it is also the rule of law that will lead to the inevitable legal conclusion that the claims against these two Defendants cannot go forward and must be dismissed.

II. SUMMARY OF RELATED LITIGATION AND DISMISSALS IN THE MODERN ERA.

This lawsuit is the latest of which is now three attempts in this century to litigate the events of 1921. The previous suits ended at the highest courts of the state and country, leaving intact the identical respective district and lower appellate court opinions which concluded, as a matter of law, that the passage of time—from the post-World War I/Pre-Depression¹ era to now—long ago barred the legal claims of the plaintiffs.

¹To be historically accurate, at the time of the Tulsa Race Massacre and in the decades before World War II, World War I was known as “The Great War” and the “War to End All Wars.”

A. 2003 Federal Lawsuit Ends at the United States Supreme Court.

In 2003, a group of nearly 400 plaintiffs, comprised of survivors and descendants of survivors, filed suit in the United States District Court for the Northern District of Oklahoma, alleging a conspiracy by state and local officials, and an alleged previously racist court system, prevented them from recovering damages. *See Alexander v. Oklahoma*, NDOK, Case No. 03-cv-0133. Like the Plaintiffs here, the *Alexander* plaintiffs sought monetary damages as well as injunctive and declaratory relief.²

In granting the defendants' motions to dismiss, the federal district court acknowledged the tragedy of the event and its aftermath, but followed the law. Specifically, the district court opined that, although plaintiffs alleged extraordinary circumstances once existed sufficient to toll the statute of limitations for several decades following the event, those circumstances dissipated in the 1960s, thus enabling plaintiffs to then bring their claims. *Id.* at March 14, 2004, Order, pp. 21-23 [Doc. 127].³ On appeal, the Tenth Circuit Court of Appeals also recognized the tragedy of the event, but upheld the trial court, concluding, "we have found no legal avenue exists through which Plaintiffs can bring their claims." *Alexander v. Oklahoma*, 382 F.3d 1206, 1220 (10th Cir. 2004) (quoting *United States v. Kubrick*, 444 U.S. 111, 125, 62 L. Ed. 2d 259, 100 S. Ct. 352 (1979)). On May 16, 2005, the United States Supreme Court denied the *Alexander* plaintiffs' petition for writ of certiorari. *Alexander v. Oklahoma*, 544 U.S. 1044 (2005).

² The *Alexander* plaintiffs, who had their legal rights to recovery extinguished in that lawsuit, included **Laurel Stradford**, a named Plaintiff here; survivor Wess Young, through whom Plaintiff **Tedra Williams** alleges her right to participate here; and, a daughter of the late A.J. Smitherman, who sought to recover her father's property damages. Here, Plaintiff **Stephen Williams** makes the same claim through Mr. Smitherman.

³ *See also Alexander v. Oklahoma*, 382 F.3d 1206, 1213 (10th Cir. 2004), *cert. denied*, 544 U.S. 1044 (2005).

B. 2004 State Court Lawsuit Ends at the Oklahoma Supreme Court.

In June 2004, while *Alexander* was still pending before the Tenth Circuit Court of Appeals, another group of survivors and survivor descendants—including many of the *Alexander* plaintiffs—filed suit in Tulsa County District Court. *Latimer v. City of Tulsa*, CJ-2004-04138.⁴ In *Latimer*, the plaintiffs asked, on behalf of themselves and “all other Race Riot victims,” then District Judge P. Thomas Thornbrugh⁵ to re-open “all of the 390 Race Riot cases” filed after the 1921 event, despite the admission by the *Latimer* plaintiffs that the “390 cases dismissed [] may have been caused by a failure to prosecute said claims by the deceased persons.” *Latimer* Petition, p. 5, ¶ 18. On October 7, 2004, after the Tenth Circuit issued its opinion upholding the federal district court in *Alexander*, Judge Thornbrugh granted the pending motion to dismiss:

The Court is constrained to adopt the rationale and decision of the United States Court of Appeals for the 10th Circuit, sustaining the decision of the U.S. District Court for the Northern District of Oklahoma, which declares that the Tulsa Race Riot plaintiff’s suit [is] time [] barred. *See John Melvin Alexander et al v. The State of Oklahoma, et al*, decided in case number 04-0542 (September 8th, 2004).

See OSCN Docket Report, CJ-2004-04138. Amongst other maneuverings, the *Latimer* plaintiffs subsequently filed and lost a motion to vacate the dismissal order, and a motion for new trial, before appealing to the Oklahoma Supreme Court. The appeal, however, was dismissed by the Oklahoma Supreme Court on October 10, 2007, after plaintiffs failed to timely file their appellate brief in chief by an already extended deadline. *See* OSCN Docket Report, Supreme Court No. 103918.

⁴The City of Tulsa, the Tulsa City Council, Tulsa’s City Attorney’s Office, the Tulsa Police Department, Tulsa County District Attorney, Tulsa County Sheriff’s Office, the Board of County Commissioners of Tulsa County, and the Oklahoma Attorney General’s Office were the named defendants in *Latimer*.

⁵Judge Thornbrugh was appointed to the Oklahoma Court of Civil Appeals by Governor Mary Fallin in 2011.

III. PLAINTIFFS' CAUSES OF ACTION ARE BARRED BY THE GOVERNMENTAL TORTS CLAIMS ACT.

Plaintiffs' public nuisance claim against the BOCC and the Sheriff, and their unjust enrichment claim against the BOCC, are barred by The Governmental Torts Claims Act ("GTCA"). OKLA. STAT. tit. 51, §§ 151-172.

The GTCA declares that the State of Oklahoma, its political subdivisions, and all of their employees acting within the scope of their employment, whether performing governmental or proprietary functions, is immune from liability for torts. OKLA. STAT. tit. 51, § 152.1(A).⁶ The Oklahoma Legislature, in its very next statutory breath, waives sovereign immunity, but "only to the extent and in the manner provided in" the GTCA. *Id.* at § 152.1(B).

The exclusivity of the GTCA on the issue of sovereign immunity, and permissible actions against the state and its political subdivisions, generally directs the analysis towards determining "whether its limited waivers of sovereign immunity from tort suit encompass the particular tort suit at issue" *Barrios v. Haskell Cty. Pub. Facilities Auth.*, 2018 OK 90, ¶ 8, 432 P.3d 233, 237 (Okla. 2018). Here, however, it is anticipated that Plaintiffs will attempt to argue that their causes of action are not tort claims, hence, the analysis and applicability of the GTCA stops there. A

⁶Prior to the enactment of the GTCA, and dating back to Oklahoma's adoption of its state Constitution, Oklahoma and its political subdivisions were immune under the common law from liability "for the negligence of [their] employees in the exercise of a governmental function" *Swart v. City of Vinita*, 1976 OK 84, ¶ 9, 551 P.2d 1107, 1109. *See also Young v. Chicago R.I. & P. R. Co.*, 1975 OK 130, ¶ 12, 541 P.2d 191, 193; *Lane v. City of Tulsa*, 1965 OK 90, ¶ 5, 402 P.2d 908, 910; *City of Ardmore v. Hendrix*, 1960 OK 2, ¶ 16, 348 P.2d 497, 500; *Grimes v. City of Henryetta*, 1953 OK 82, ¶ 7, 254 P.2d 980, 981; *Chism v. City of Tulsa*, 1943 OK 40, ¶ 1 *Syllabus by the Court*, 136 P.2d 409; *Savage v. City of Tulsa*, 1935 OK 1058, ¶ 1 *Syllabus by the Court*, 50 P.2d 712; *Oklahoma City v. Foster*, 1926 OK 392, ¶ 2 *Syllabus by the Court*, 247 P. 80; *City of Lawton v. Harkins*, 1912 OK 584, 126 P. 727; and *City of Oklahoma City v. Hill*, 1897 OK 60, 50 P. 242.

reliance upon traditional notions of tort, however, would be misplaced. Indeed, the GTCA provides its own expansive definition of “tort” for the purposes of the act:

“Tort” means a legal wrong, independent of contract, involving violation of a duty imposed by general law, statute, the Constitution of the State of Oklahoma, or otherwise, resulting in a loss to any person, association or corporation as the proximate result of an act or omission of a political subdivision or the state or an employee acting within the scope of employment

Id. at § 152(14). The GTCA definition is purposefully broad, and includes Plaintiff’s causes of action.⁷

A. Public Nuisance is a Tort under the GTCA.

Plaintiffs’ public nuisance cause of action is doomed on multiple fronts. Beyond its misuse, public nuisance is both a common law tort and a tort defined under the GTCA. As such, Plaintiffs’ cannot prevail against the BOCC and the Sheriff.

Public nuisance is defined in the RESTATEMENT (SECOND) OF TORTS: “A public nuisance is an unreasonable interference with a right common to the general public.” *Id.* at § 821B. Professor Prosser, the official reporter for the Restatement (Second) of Torts, noted in the Comments of 821B, that in the common law, “interference with the public right was so unreasonable that it was held to constitute a criminal offense. For the same reason it also constituted a tort.” *Id.* at cmt. b. The Oklahoma Supreme Court recognizes public nuisance as a tort for the purpose of determining whether the doctrine of sovereign immunity applies to a civil suit against the state and its political subdivisions.

⁷For a discussion of the legislature’s consistent amendments to the GTCA and its definition of “tort,” to foreclose and nullify judicially created causes of action against the state and its political subdivisions, see *Barrios*, 2018 OK at ¶¶ 10-17.

In *Coffey v. Oklahoma*, 1976 OK 20, 547 P.2d. 947 (Okla. 1976), landowners sued the state under theories of public nuisance and the unlawful taking of their property, arising from damage to their home which they alleged was caused by the firing of canons during a gubernatorial inauguration. *Id.* In its opinion, the *Coffey* Court first noted, “[i]t has been held that a nuisance is a tort, or at least involved tortious conduct, for the purpose of determining applicability of the doctrine of government immunity because it falls into the usual categories of tort liability.” *Id.* at ¶ 16, p. 950 (citing *Woods v. Kansas Turnpike Authority*, 472 P.2d 219 (Kan. 1970)). This determination led the Court to then conclude that “Plaintiffs’ assertion that the case at bar sounds in nuisance or in tort negatives the existence of any right . . . for the reason of the State’s sovereign immunity.” 1976 OK at ¶ 19.⁸ The same hold true here. Dismissal is proper.

Further, in alleging their “Claim #1: Public Nuisance,” Plaintiff’s expressly identify and rely upon Oklahoma’s nuisance statutes. Plaintiff’s Petition, ¶¶ 109-110, pp. 38-39 (quoting from and citing to OKLA. STAT. tit. 50, § 1, “Nuisance Defined,” and § 2, “Public Nuisance Defined”). The statutory definition of “Tort” from the GTCA, quoted above, includes “**a legal wrong, independent of contract**, involving violation of a duty imposed by general law, **statute**, the Constitution of the State of Oklahoma, or otherwise, . . .” OKLA. STAT. tit. 51, § 152(14) (emphasis added). Whether by common law or statute, Plaintiff’s public nuisance cause of action is a “tort” under the GTCA.

B. Unjust Enrichment is a “Tort” under the GTCA.

Although traditionally not grounded in tort or contract, under the newly-expanded definitions and exclusivity of liability provisions of the GTCA, Plaintiffs’ tenuous “unjust

⁸In *Coffey*, the Oklahoma Supreme Court recognized that “[n]o amount of sympathy for the plight of the vexed landowners can change the legal principles applicable to their claim.” *Id.* at ¶ 24.

enrichment” claim against the BOCC is subject to and barred by Oklahoma’s Governmental Tort Claim Act. Indeed, under the plain language of the statute, a GTCA “tort” is “**a legal wrong, independent of contract**, involving violation of a duty imposed by general law, statute, the Constitution of the State of Oklahoma, **or otherwise**,” OKLA. STAT. tit. 51, § 152(14) (emphasis added). The purposeful breadth of this definition, by evolution of legislative amendment, cannot be understated.

Oklahoma and its political subdivisions were immune under the common law from liability until the Oklahoma Supreme Court eliminated the same, in *Vanderpool v. State*, 1983 OK 82, 672 P.2d 1153. In so doing, however, the *Vanderpool* Court stated that its “decision is limited in its effect to the heretofore judicially created and recognized doctrine of governmental immunity and is not to be taken as in any way rendering ineffective any act of the Legislature in the area of governmental immunity.” *Id.* at ¶ 25. The Oklahoma Legislature took the hint.

In the next legislative session, the Oklahoma Legislature abrogated *Vanderpool* with a statutory declaration in the GTCA of the state’s adoption of the doctrine of sovereign immunity, while simultaneously waiving the same declared immunity for certain tort claims identified in the statute. OKLA. STAT. tit. 51, § 152.1(A) and (B). In 2013, the Oklahoma Supreme Court, in *Bosh v. Cherokee County Governmental Building Authority*, 2013 OK 9, 305 P.3d 994, found that the GTCA did not bar a tort claim that alleges excessive force in violation of a pre-trial detainee’s state Constitutional rights. *Id.* Once again, the Legislature acted.

In the next legislative session, the Oklahoma Legislature amended the GTCA’s definition of “tort” to include the alleged deprivation of statutory and the state constitutional rights; similarly amended the scope of the state’s liability; reinforced the exclusivity of the GTCA for the liability

of the state and its political subdivisions; and added, in bold below, what can be reasonably interpreted as a prophylactic statement to protect against future judicial interference:

The liability of the state or political subdivision under The Governmental Tort Claims Act shall be exclusive and shall constitute the extent of tort liability of the state, a political subdivision or employee arising from common law, statute, the Oklahoma Constitution, or otherwise. **If a court of competent jurisdiction finds tort liability on the part of the state or a political subdivision of the state based on a provision of the Oklahoma Constitution or state law other than The Governmental Tort Claims Act, the limits of liability provided for in The Governmental Tort Claims Act shall apply.**

OKLA. STAT. tit. 51, § 153 (emphasis added).

The above illustrates the depth of the Oklahoma Legislature’s resolve to limit actions against the state and its political subdivisions, by broadening the definition of “torts” under the GTCA. The GTCA “tort” definition now effectively captures any imaginable wrongdoing, whether grounded in the common law, statute or even the Oklahoma Constitution, “**or otherwise,**” provided the wrongdoing is independent of contract. *See id.* at § 152(14) (emphasis added).

Applied here, Plaintiffs’ unjust enrichment theory and the alleged wrongdoing does not arise out of any contract, but, rather, is based upon the alleged wrongdoing that the BOCC “appropriated the historic reputation of ‘Black Wall Street’ to their own financial and reputational benefit.” Plaintiff’s Petition, ¶ 115, p. 40. As pled, this cause of action meets the generous definition of “tort” for purposes of GTCA, and—like public nuisance—can only survive the doctrine of sovereign immunity if the GTCA’s limited waivers of immunity encompasses the claim.

C. The GTCA Exempts the BOCC and the Sheriff from Liability.

Plaintiffs’ Petition fails to identify or allege any specific act or omission by the BOCC or the Sheriff to justify their inclusion in this lawsuit. Instead, Plaintiffs cast the BOCC and the Sheriff

into a hodgepodge stew of culpability for the events of 1921, and beyond. With respect to Plaintiffs' general allegations, the GTCA expressly exempts the BOCC and the Sheriff from liability for any loss or claim arising from the:

4. Adoption or enforcement of or failure to adopt or enforce a law, whether valid or invalid, including, but not limited to, any statute, charter provision, ordinance, resolution, rule, regulation or written policy;

5. Performance of or the failure to exercise or perform any act or service which is in the discretion of the state or political subdivision or its employees;

6. **Civil disobedience, riot, insurrection or rebellion or the failure to provide, or the method of providing, police, law enforcement or fire protection; . . .**

16. Any claim which is limited or barred by any other law; . . .

18. An act or omission of an independent contractor or consultant or his or her employees, agents, subcontractors or suppliers or of a person other than an employee of the state or political subdivision at the time the act or omission occurred; . . .

37. Use of a public facility opened to the general public during an emergency.

OKLA. STAT. tit. 51, § 155 (emphasis added). To the extent Plaintiffs claims arise out of any allegation that the BOCC and/or the Sheriff failed in any of the above categories, the BOCC and the Sheriff are exempt from liability under the GTCA. Plaintiffs' Petition must be dismissed.

D. Compliance with the GTCA Claims Procedure.

Even if, *arguendo*, Plaintiffs' claims were subject to a waiver of sovereign immunity under the GTCA, Plaintiffs have failed to comply with the explicit mandatory notice provisions to maintain this lawsuit. Under the GTCA, a lawsuit may only be maintained if written notice of a claim has been given to the governmental subdivision within one year of the tort injury, and if the action is commenced within 180 days after denial of the claim. OKLA. STAT. tit. 51, §§ 156 & 157. "[T]he GTCA procedure applies to a 'tort claim' as such is defined by the GTCA." *Pellegrino v.*

Cameron Univ. ex rel. Bd. of Regents, 2003 OK 2, ¶ 11, 63 P.3d 535, 539 (Okla. 2003). This procedure is not optional.

Indeed, notice and timely commencement of suit are conditions precedent to the right to pursue judgment against a political subdivision. *Tuffy's, Inc. v. City of Oklahoma City*, 2009 OK 4, ¶ 7, 212 P.3d 1158, 1163 (Okla. 2009). And, compliance with the GTCA's notice provisions must be alleged by in the petition. *Mansell v. City of Lawton*, 1995 OK 81, ¶ 1, fn. 2, 901 P.2d 826, 828, fn. 2, (Okla. 1995)). *See also, Simington v. Parker*, 2011 OK CIV APP 28, ¶ 25, 250 P.3d 351, 358, (Okla. Civ. App. 2011) (citing *Willborn v. City of Tulsa*, 1986 OK 44, ¶ 5, 721 P.2d 803, 805 (Okla. 1986)).

None of the Plaintiffs allege compliance with the mandatory GTCA notice requirements. Where, like here, a plaintiff fails to allege compliance with these prerequisites in their petition, "the district court was without jurisdiction" to hear the GTCA claims. *Burghart v. Corr. Corp. of Am.*, 2009 OK CIV APP 76, ¶ 13, 224 P.3d 1278, 1282 (Okla. Ci. App. 2009). As a matter of Oklahoma law, Plaintiffs' Petition against the BOCC and the Sheriff should be dismissed.

E. Plaintiffs' Claims Are Time Barred by the GTCA.

Plaintiffs are out of time to file any claim under the GTCA, and are thus barred from maintaining this lawsuit against the BOCC and the Sheriff.

Any claim by Plaintiffs against the BOCC and the Sheriff was required "to be presented within one (1) year of the date the loss occurs. A claim against the state or a political subdivision shall be forever barred unless notice thereof is presented within one (1) year after the loss occurs." OKLA. STAT. tit. 51, § 156(B). *See also Slawson v. Bd. of County Comm'rs*, 2012 OK 87, ¶ 6, 288 P.3d 533, 534 (Okla. 2012).

Plaintiffs allege the BOCC and the Sheriff are liable for nuisance, and further allege the nuisance has existed for at least the past 70 years. In their Petition, Plaintiffs claim that “[t]hroughout the 1950s, 1960s, and 1970s,” the BOCC, amongst others, implemented or promoted certain policies of urban renewal, but complains of the “Defendant’s [sic] failure to include the Greenwood and North Tulsa communities in the decision-making process.” Petition, ¶ 86, p. 29 (emphasis added). The very next sentence of the Petition alleges that “[t]his failure exacerbated nuisance conditions in the Greenwood and North Tulsa neighborhoods.” *Id.* at ¶ 86 (emphasis added).

Viewing the allegations in the Petition as true for purposes of this Motion, Plaintiffs admit the “nuisance conditions” existed as early as the 1950s. Similarly, Plaintiffs’ unjust enrichment claim against the BOCC relates back to 1921, and covers the last 100 years. *See* Petition. Plaintiffs were required to present notice of their nuisance and unjust enrichment claims “within one (1) year after the loss occurs.” OKLA. STAT. tit. 51, § 156(B). Accordingly, the right of the Plaintiffs to present their GTCA claims expired sometime in the 20th century.⁹ Dismissal of the claims against the BOCC and the Sheriff is warranted under Oklahoma law.

F. Oklahoma Law Exempts the BOCC and the Sheriff from Liability for the Alleged Unlawful Acts of Their Employees.

The GTCA excludes the BOCC and the Sheriff from any liability “for any act or omission of an employee acting outside the scope of the employee’s employment.” OKLA. STAT. tit. 51, § 153(A). The GTCTA makes a clear distinction between a government employee acting within the scope of employment and one who was not. *Martin v. Johnson*, 1998 OK 127, P 28, 975 P.2d 889,

⁹ Further, outside of the GTCA, the statute of limitations for an unjust enrichment claim in Oklahoma is otherwise two years. *City of Tulsa v. Nank of Okla., N.A.*, 2011 OK 83, ¶ 20, 280 P.3d 314, 320 (Okla. 2011) (citing to OKLA. STAT. tit. 12, § 95).

895; *Carswell v. Oklahoma State University*, 1999 OK 102, P 20, 995 P.2d 1118, 1123. The “scope of employment” is defined as “performance by an employee acting in good faith within the duties of his office or employment or of tasks lawfully assigned by a competent authority.” *Tuffy's, Inc.*, 2009 OK at ¶ 8, 212 P.3d at 1163 (citing *Fehring v. State Ins. Fund*, 2001 OK 11, ¶ 25, n. 19, 19 P.3d 276 (Okla. 2001)). Conversely, “[a]n act of the employee is not in the scope of employment if the employee acted maliciously or in bad faith.” *Martin*, 1998 OK at ¶ 28, 975 P.2d at 895 (citing *Nail v. City of Henryetta*, 1996 OK 12, ¶ 7, 911 P.2d 914, 916 (Okla. 1996)). “A political subdivision is relieved from liability for tortious conduct committed by employees outside the scope of employment.” *Tuffy's, Inc.*, 2009 OK at ¶ 8, 212 P.3d at 1163.

Here, Plaintiffs allege that unnamed “County officials” and unnamed “members of the County Sheriff’s office unlawfully and without just cause, participated in the angry [w]hite mob, killing African American Greenwood residents.” Petition at ¶ 40. More specifically, and as a mere sampling of Plaintiffs’ allegations, Plaintiffs allege these persons “committed arson,” *id.* at ¶ 41, were responsible for “stealing and looting personal property” *id.* at ¶ 48, and for “murdering hundreds.” *Id.* at ¶49. As a matter of law, the malicious and intentional criminal acts alleged by Plaintiffs to have been committed by employees of the county and sheriff’s department, relieves the BOCC and the Sheriff from any liability. *See Martin*, 1998 OK at ¶ 28, 975 P.2d at 895, and *Tuffy's, Inc.*, 2009 OK at ¶ 8, 212 P.3d at 1163. Dismissal is proper.

IV. THE BOCC AND SHERIFF ADOPT AND INCORPORATE BY REFERENCE THE REMAINING APPLICABLE LEGAL PROPOSITIONS OF THE CO-DEFENDANTS.

The Governmental Tort Claims Act fully extinguishes the Plaintiffs’ claims against the BOCC and the Sheriff. To the extent the Court disagrees, and out of respect for the burden placed on the Court to address the multiple and voluminous motions to dismiss filed by all of the

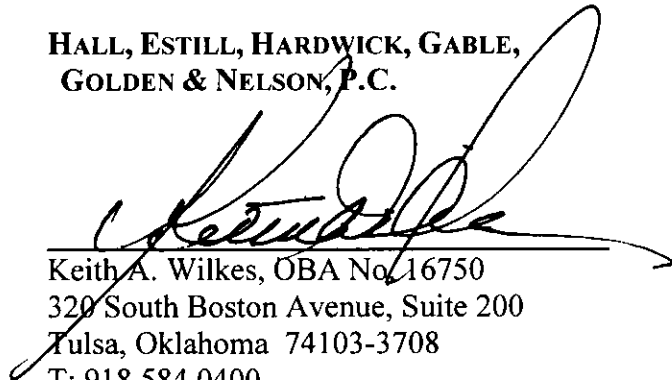
Defendants on November 9, 2020, the BOCC and the Sheriff adopt and incorporate by reference the non-duplicative legal propositions of their Co-Defendants to the extent those legal argument and authorities apply equally to the BOCC and the Sheriff.

WHEREFORE, premises considered, the Board of County Commissioners for Tulsa County, and Vic Regalado, in his official capacity as Sheriff of Tulsa County, request the Court to enter an Order granting their Motion to Dismiss the causes of action against both and each of them, and thereafter dismissing Plaintiffs' claims against the BOCC and the Sheriff with prejudice to refiling.

Dated: November 9, 2020.

Respectfully submitted,

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BOARD OF COUNTY COMMISSIONERS
FOR TULSA COUNTY, OKLAHOMA, and
VIC REGALADO, IN HIS OFFICIAL
CAPACITY, AS SHERIFF OF TULSA
COUNTY**

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2020, I caused the foregoing Motion to Dismiss and Brief in Support to be served by United States Mail, postage fully prepaid thereon, to the following:

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