



**IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA**

THE SUSTAINABLE JOURNALISM
FOUNDATION *d/b/a* NONDOC MEDIA
and WILLIAM W. SAVAGE III,

Plaintiff

v.

STATE OF OKLAHOMA, *ex rel.* BOARD OF
REGENTS OF THE UNIVERSITY OF
OKLAHOMA,

Defendant.

Case No. CV 2021-1770
STATE OF OKLAHOMA }
CLEVELAND COUNTY } S.S.

FILED

JUL 26 2021

In the office of the
Court Clerk MARILYN WILLIAMS

**STATE OF OKLAHOMA, *ex rel.* BOARD OF REGENTS OF THE UNIVERSITY OF
OKLAHOMA'S ANSWER TO PETITION FOR RELIEF FOR VIOLATIONS OF THE
OKLAHOMA OPEN RECORDS ACT**

For its answer to the Petition for relief for violations of the Oklahoma Open Records Act (the "Petition") of the Sustainable Journalism Foundation *d/b/a* NonDoc Media ("Plaintiff NonDoc" or "NonDoc") and William w. Savage ("Plaintiff Savage" or "Savage") (collectively, "Plaintiffs"), Defendant State of Oklahoma, *ex rel.* Board of Regents of the University of Oklahoma (the "University"), hereby states and avers as follows. No allegation contained in the Petition is admitted, unless it is specifically admitted herein. The allegations in this lawsuit are nothing more than inflammatory assertions based on articles without a basis of support beyond said articles. In fact, five of the referenced internet articles supporting the allegations are Plaintiff NonDoc's own articles.

ANSWER

PARTIES

1. The allegations contained in Paragraph 1 of the Petition pertain to another party and require no response from University. To the extent a response is required the University is without sufficient knowledge to admit or deny the allegations in Paragraph 1.

2. The allegations contained in Paragraph 2 of the Petition pertain to another party and require no response from University. To the extent a response is required the University is without sufficient knowledge to admit or deny the allegations in Paragraph 2.

3. The University admits the allegations in paragraph 3, but would clarify that the University is a constitutionally created state entity. Const. art. XIII, § 8.

STATEMENT OF THE FACTS

A. Background Facts

4. The University admits the allegations in Paragraph 4 of the Petition.

5. The University admits the allegations in Paragraph 5 of the Petition.

6. The University admits the averments in the first sentence of Paragraph 6 to the extent that while David Boren (“Boren”) was president of the University, the percent of alumni donors reported to the U.S. News and World Report was inflated. The University is without sufficient knowledge or information to admit or deny the truth of the remaining allegations in paragraph 6 of the Petition and demands strict proof thereof.

7. The University denies the allegations made in Paragraph 7 of the Petition . In 2018, Jones Day was hired as counsel to the University to give legal advice on the alleged misreporting on alumni donor data and also to advise on the effects thereof.

8. The University admits the allegations in Paragraph 8 to the extent Nolan Clay “reported that the scope of the University’s internal review had been expanded to include allegations of whether Boren Sexually harassed aides.” The University denies the assertions of the underlying facts in Nolan Clay’s reporting.

9. The University admits that NonDoc published the article in Paragraph 9 of the Petition. The NonDoc article speaks for itself and the University denies the allegations in said article.

10. The University denies the allegations in Paragraph 10 and the NonDoc article referenced in Paragraph 10. An excerpt of a report was provided to Jess Eddy (“Eddy”) under a condition of confidentiality.

11. The University admits that Nolan Clay wrote the article referenced in paragraph 11.

12. The University admits the allegations in paragraph 12 of the Petition.

13. The University admits that it spent more than one million dollars obtaining legal advice. The University denies the remainder of the allegations in Paragraph 13.

14. The University denies the allegations in Paragraph 14. The allegations of Paragraph 14 are a mischaracterization of the NonDoc article referenced within the paragraph. The Article does not say “several officials have called for the University to release the report.”

15. The University admits that the NonDoc article reported that Eddy made the statement in Paragraph 15, but the University is without sufficient knowledge or information to admit or deny the truth of the allegations to the extent that there is no evidence that Eddy made the unconfirmed statement and demands strict proof thereof.

16. The University admits NonDoc published an article containing the SoonerPoll results contained in Paragraph 16 of the Petition. The University is without sufficient knowledge

or information to admit or deny the veracity of the polling; accordingly, those allegations in Paragraph 16 are denied.

17. The University admits the allegations in Paragraph 17 of the Petition.

B. Plaintiff's Oklahoma Open Records Act Requests

18. The University admits the allegations in Paragraph 18 of the Petition.

19. The University admits the allegations in Paragraph 19 of the Petition.

20. The University admits the allegations in Paragraph 20 of the Petition.

21. The University admits the allegations in Paragraph 21 and further admits this lawsuit was filed before the University had an opportunity to respond.

22. The allegations in Paragraph 22 are denied. This lawsuit was filed before the response date requested by the University. The University responded on June 11, 2021.

CAUSE OF ACTION ALLEGED

23. Paragraph 23 of the Petition contains no allegations and therefore no response is required. To the extent a response is required, the University repeats and incorporates the answers set forth in Paragraphs 1 through 22 as though set forth fully herein.

24. The allegations contained in Paragraph 24 of the Petition constitute legal statements and/or conclusions, therefore no response is required.

25. The allegations contained in Paragraph 25 of the Petition constitute legal statements and/or conclusions, therefore no response is required. The quoted statute in Paragraph 25 speaks for itself.

26. The allegations contained in Paragraph 26 of the Petition constitute legal statements and/or conclusions, therefore no response is required.

27. The allegations contained in Paragraph 27 of the Petition constitute legal statements and/or conclusions, therefore no response is required.

28. The allegations contained in Paragraph 28 of the Petition constitute legal statements and/or conclusions, therefore no response is required.

29. The allegations contained in Paragraph 29 of the Petition constitute legal statements and/or conclusions, therefore no response is required.

30. The University denies the allegations in Paragraph 30 of the Petition.

31. The University denies the allegations in Paragraph 31 of the Petition.

32. The University denies the allegations in Paragraph 32 of the Petition.

33. The University denies the allegations in Paragraph 33 of the Petition.

34. The University denies the allegations in Paragraph 34 of the Petition.

AFFIRMATIVE DEFENSES

1. The Jones Day reports are confidential and covered by exemptions included in 51 O.S. § 24A.5(1)(a).

2. The Jones Day reports are covered by attorney client privilege and excerpts have not been supplied to anyone without an agreement of confidentiality that protects the University's privileges.

3. The Jones Day report is covered by exemptions included in 51 O.S. § 24A.5.

4. The Jones Day reports are covered by the privilege of deliberative process.

5. Any communications between Jones Day and the University and/or any representatives or employees of the University is protected by the University's attorney-client privilege. *Upjohn Company v. United States*, 449 U.S. 383, 389-397 (1981).

6. The Jones Day reports are confidential pursuant to 51 O.S. § 24A.7(A).

7. The Jones Day reports are confidential pursuant to 51 O.S. §24A.12.
8. There has been no waiver of any privilege by the University.
9. Plaintiff fails to state a claim for which relief can be granted.
10. Pursuant to 2011.1, the University affirmatively asserts that it is entitled to attorney fees.



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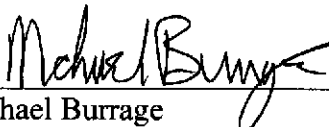
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**ATTORNEYS FOR STATE OF
OKLAHOMA, ex rel. BOARD OF
REGENTS OF THE UNIVERSITY OF
OKLAHOMA**

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of July 2021, a true and correct copy of the foregoing was mailed postage prepaid to:

Kathryn E. Gardner
Reporters Committee for Freedom of the Press
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Michael Burrage