

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

JAN 23 2024

THE SUSTAINABLE JOURNALISM FOUNDATION)
d/b/a NONDOC MEDIA and)
WILLIAM SAVAGE III,)
)
Plaintiffs,)

In the office of the
Court Clerk MARILYN WILLIAMS

v.)

Case No. CV-2021-1770

STATE OF OKLAHOMA, ex rel. BOARD OF)
REGENTS OF THE UNIVERSITY OF OKLAHOMA)
)
Defendant.)


ORDER GRANTING PLAINTIFFS' MOTION FOR *IN CAMERA* REVIEW

NOW, on this 23rd day of January 2024, this matter came on for ruling on the briefs submitted regarding the *Plaintiffs' Motion for In Camera Review*. The Court, having fully considered the briefings of the parties, and full premises considered, enters the following Order:

1. Plaintiffs' Motion seeks production of two (2) reports compiled by the law firm Jones Day for the University of Oklahoma that are the subject of the instant litigation (the "Jones Day Reports");
2. The Court has the authority to conduct an *in camera* review of the Jones Day Reports. *See* Okla. Stat. tit. 12 § 3237;
3. Use of *in camera* review to determine the appropriateness of exemptions to disclosure is a valuable tool for the trial court;
4. *In camera* review provides an accommodation when there is a question over whether a privilege exists or should be enforced;
5. The Court believes that *in camera* inspection is needed to make a responsible determination on the claims of privilege and exemption.

For the above-stated reasons, the Court hereby orders the University to furnish unredacted copies of the Jones Day Reports to the Court for *in camera* inspection.

IT IS SO ORDERED this 23rd day of January 2024.


HON. MICHAEL TUPPER
DISTRICT JUDGE

CERTIFICATE OF DELIVERY

On the 23rd day of January 2024, I certify that a true and correct copy of the attached Order was delivered to counsel for the parties via email, as follows:

Lin Weeks, Attorney for Plaintiffs, at	lweeks@rcfp.org
Blake Johnson, Attorney for Plaintiffs, at	blakejohnson@overmanlegal.com
Michael Burrage, Attorney for Defendants, at	mburrage@whittenburragelaw.com
Austin Vance, Attorney for Defendants, at	.avance@whittenburragelaw.com
J. Renley Dennis, Attorney for Defendants, at	jdennis@whittenburragelaw.com
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LESLIE ROBINSON

Secretary/bailiff for Hon. Michael Tupper

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In the office of the
 Court Clerk MARILYN WILLIAMS


Case No. CV-2021-1770

ORDER DENYING PLAINTIFFS' MOTION TO COMPEL DEPOSITIONS AND FOR EXPENSES AND FEES

NOW, on this 23rd day of January 2024, this matter came on for ruling on the briefs submitted regarding the *Plaintiffs' Motion to Compel Depositions and For Expenses and Fees*. The Court, having fully considered the briefings of the parties, and upon review and consideration of the *12 O.S. § 3230(C)(5)* depositions of Heidi Long and Ferris Barger under *12 O.S. §§ 3236(A)(2-4), 3320(E)(1)*, and full premises considered, finds as follow:

1. Defendant ("University") produced appropriate corporate representatives in Heidi Long and Ferris Barger for depositions on June 9, 2023, pursuant to *12 O.S. §3230(C)(5)*;
2. Ms. Long and Mr. Barger were properly apprised of the topics of the depositions and sufficiently knowledgeable about those matters;
3. Plaintiffs' motion to compel additional deposition testimony from the University and awarding to Plaintiffs costs and fees is denied.

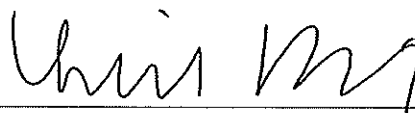
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Plaintiffs,)

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Case No. CV-2021-1770

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


Defendant.)

ORDER DENYING PLAINTIFFS' SECOND MOTION TO COMPEL DISCOVERY

NOW, on this 23rd day of January 2024, this matter came on for ruling on the briefs submitted regarding the *Plaintiffs' Second Motion to Compel Discovery*. The Court, having fully considered the briefings of the parties, and upon review and consideration of the discovery requests, responses and privilege log under *12 O.S. § 3236(B)(1)(a)*, and full premises considered, finds as follow:

1. The University has completed a thorough search in discovery;
2. The University's privilege log is sufficient;
3. The University's Interrogatory Responses and Document Production are sufficient;
4. In the instant case, the University has complied with its discovery obligations as provided by the Oklahoma Discovery Code;
5. Plaintiff's Second Motion to Compel is denied.

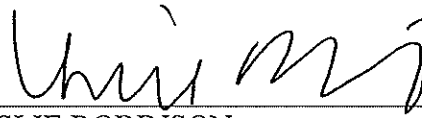
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 DISTRICT JUDGE

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Defendant.)

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Case No. CV-2021-1770

ORDER GRANTING UNIVERSITY'S MOTION TO FILE RESPONSES UNDER SEAL

NOW, on this 23rd day of January 2024, this matter came on for ruling on the briefs submitted regarding the *University's Motion to File Responses Under Seal*. The Court, having fully considered the briefings of the parties, and full premises considered, enters the following Order, pursuant to 51 O.S. § 24A.30:

1. A central issue in this case concerns the work of Jones Day, a law firm, for its client, the University of Oklahoma, such that confidentiality concerns underlying all privileges and exemptions to disclosure under the Open Records Act ("ORA") are at issue;
2. The arguments and evidence discussed in the briefings and pleadings relate to alleged confidential information not previously shared with the public;
3. The University's interest in withholding this information from the public outweighs the public's interest in disclosure, pending resolution of the instant litigation;
4. If Plaintiffs' theory of the case is correct, then the harm to the public is delay of information and not denial.

5. Defendant is granted leave to file its Response to Plaintiffs' Second Motion to Compel and its Response to Plaintiffs' Motion to Strike the Testimony and Affidavit of Heidi Long under seal.

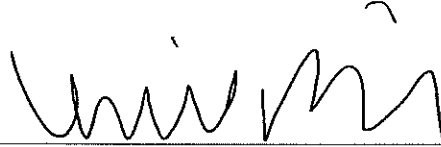
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HON. MICHAEL TUPPER
DISTRICT JUDGE

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**ORDER DENYING PLAINTIFFS' MOTION TO STRIKE AFFIDAVIT AND EXCLUDE
OR LIMIT TESTIMONY OF HEIDI LONG**

NOW, on this 23rd day of January 2024, this matter came on for ruling on the briefs submitted regarding the *Plaintiffs' Motion to Strike Affidavit and Exclude or Limit Testimony of Heidi Long*. The Court, having fully considered the briefings of the parties, review and consideration of the Affidavit and deposition of Heidi Long, and full premises considered, enters the following Order.

1. Ms. Long possessed a sufficient basis of knowledge to support the statements made in her Affidavit;
2. The Affidavit shows that Ms. Long was competent to testify as to the matters stated therein;
3. The Affidavit sets forth matters that would be admissible in evidence at trial;
4. The Affidavit does not inherently lack credibility;
5. The Affidavit satisfies the requirements of Okla. Dist. Ct. R. 13(c).

For the above-stated reasons, Plaintiffs' Motion to Strike Affidavit is denied. Further, Plaintiffs' Motion to Exclude or Limit the Testimony of Heidi Long for summary judgment proceedings is denied.

IT IS SO ORDERED this 23rd day of January 2024.



HON. MICHAEL TUPPER
DISTRICT JUDGE

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Case No. CV-2021-1770

**ORDER DETERMINING PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE
PORTIONS OF PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS AND FOR
EXPENSES AND FEES UNDER SEAL**


NOW, on this 23rd day of January 2024, this matter came on for ruling on the briefs submitted regarding the *Plaintiffs' Administrative Motion to File Portions of Plaintiffs' Motion to Compel Depositions and for Expenses and Fees Under Seal*. The Court, having fully considered the briefings of the parties, and full premises considered, enters the following *Order*:

1. The Transcript at issue is not a public court record as defined by 12 O.S. § 32.1.
2. The Transcript at issue contains confidential information relating to the Title IX investigation proceedings, as well as the OSBI multi-county grand jury inquiry conducted by the Oklahoma Attorney General.
3. Confidentiality outweighs the public interest in this discovery Transcript.
4. The Court finds that sealing and closure of the Transcript is essential to preserve the confidential material contained within the Transcript until the controversy between the parties is resolved. Further, the Court finds that the sealing of the Transcript is narrowly tailored to serve that interest.

5. The University's interest in withholding this information from the public outweighs the public's interest in disclosure, pending resolution of the instant litigation;
6. If Plaintiffs' theory of the case is correct, then the harm to the public is delay of information and not denial.

For the above-stated reasons, the Plaintiffs' request to file its Motion to Compel Depositions in unredacted form and for the Transcript be unsealed is hereby denied.

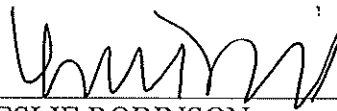
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