

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

DR. JIM SISNEY, an individual)	
)	
Plaintiff,)	
v.)	Case No.CJ-2008-06173
)	Judge Daman Cantrell
MARYANNE FLIPPO,SHARI WILKINS,)	
SHARON WHELPLEY, as individuals)	
and in their official capacities)	
as Members of the Broken Arrow)	
Public School Board of Education,)	
And)	
INDEPENDENT SCHOOL DISTRICT)	
NO. 3 OF TULSA COUNTY)	
)	
Defendants.)	

**PLAINTIFF'S STATEMENT OF GOOD CAUSE
AND REQUEST FOR CONFERENCE BEFORE THE COURT**

Plaintiff's counsel presents this Court with her statement of good cause why sanctions should not be ordered in this case. For an understanding of the timeline of events and pleadings the Plaintiff presents the following:

1. In January 2011, the Plaintiff filed a Third Amended Petition adding breach of contract claims.
2. The Defendants responded with Flipppo, Whelpley, Wilkins filed a counter claim and a **Motion to Dismiss.**
3. The School District filed a **Motion for Summary Judgment and Motion to Strike.**
4. All of these motions were and are pending before the Court.
5. In March and April 2011, Plaintiff sought to take depositions of the Defendants.

6. Defendants filed a **Joint Motion for Protective Order a Stay of Discovery and A Motion to Stay all Pending Deadlines.**
7. The Court set the hearing on the pending Motions for **July 15, 2011.**
8. On **June 23, 2011,** Plaintiff's counsel received Notice from the Court that the hearing set for July 15, 2011 had been stricken and re-set for **July 21, 2011.**
9. On July 6, 2011, School District Counsel filed a Motion to Continue the July 21, 2011 hearing.
10. Thereafter, Plaintiff's counsel received a call from the Judge's clerk advising that the hearing would be continued and that the Court would let counsel know when the matter was re-scheduled.
11. Plaintiff's counsel has not received any notice of a new hearing date either verbally or in writing.
12. On November 9, 2011, Plaintiff's counsel received the Order from the Court to show good cause.
13. Until this Order was received on November 9, 2011, Plaintiff's counsel had no idea that a hearing had taken place because **Plaintiff's counsel had been operating under the belief that with the filing of the Motion to Stay all Pending Deadlines, that the scheduling order and the pre-trial deadlines were not in effect.**
14. To date, Plaintiff's counsel has not received a phone call or letter from Defendants counsel advising that they were seeking sanctions sought or that a hearing had occurred.

15. After counsel received the November 1, 2011 Order from this Court, she examined the Tulsa County court docket and only then did she understand that a hearing had taken place, that the pretrial had been stricken and that opposing counsel had moved for sanctions.

First, Plaintiff's counsel apologizes to the Court for not attending the hearing which occurred in August. Plaintiff and his counsel are very serious about this case and did not intend to jeopardize its status in any way. Plaintiff's counsel genuinely believed the pretrial deadlines were not in place until the Court ruled on the various motions. Once the Defendants filed their motion to stay all pending deadlines, Plaintiff's counsel did not seek to continue with discovery or other pretrial matters. Plaintiff's counsel was simply awaiting a new hearing date for oral argument on the motions and believed that the pre-trial schedule would be re-worked since discovery had been prevented by Defendants. Until discovery was permitted and the motions ruled on, the case had not developed to a pretrial stage.

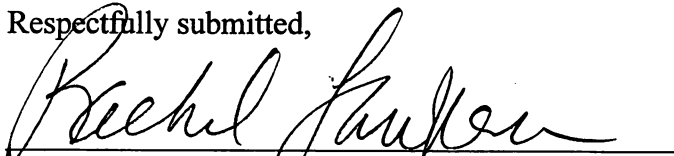
Rule 5 F. of the Rules for District Courts provides: "1. *Attorneys shall confer prior to the pretrial conference and prepare a single suggested pretrial order for use during the pretrial conference.*" This rule suggests that all parties should engage in the process of preparation for a pretrial conference. Plaintiff's counsel understands that the burden to begin to circulate a pretrial draft is on the Plaintiff. Typically, the parties will begin to discuss the draft in the weeks preceding the pre-trial conference. Plaintiff's counsel did not begin this process because she did not think the pretrial deadlines were in play until the Court ruled on the pending motions.

Neither counsel for the Defendants or the counter-claimant have ever contacted her regarding the hearing or a draft of the pretrial order. In counsel's 26 years of practicing law, she has never failed to comply with the Plaintiff's burden to initiate the circulation of a pre-trial

order. Clearly, since she did not think the schedules were in effect she did not initiate the process. However, during her time as an attorney, she has observed the normal practice and professional courtesy to contact opposing Plaintiff's counsel if they have not timely begun the process. Plaintiff's counsel understands that an attorneys docket can sometimes get crowded and attorneys become so busy that pretrial dates and deadlines can get overlooked. Plaintiff's counsel also understands that the Rule 5 for the District Courts appears to intend for this to be a collaborative process with all attorneys. In this case however, Plaintiff's counsel believed that the pending deadlines and pretrial schedule was in a state of limbo until the Court ruled on the variety of motions, including the motion to stay all pending deadlines.

Wherefore, Plaintiff respectfully requests this Court decline to issue sanction. Plaintiff's counsel also respectfully requests a conference before the Court with opposing counsel on this issue.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on the 9th day of November 2011, a true and correct copy of the above and foregoing document was delivered upon Service via U.S. Mail, postage prepaid thereon, to:

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