



IN THE DISTRICT COURT FOR TULSA COUNTY
STATE OF OKLAHOMA

(1) CHRISTOPHER BARNETT, **CV-2017-00832**

Plaintiff,

DANA LYNN KUEHN

v.

Case No.:

(2) TULSA COMMUNITY COLLEGE,

Defendant.

**DISTRICT COURT
FILED
JUL - 7 2017
DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY**

PETITION

Plaintiff, Christopher Barnett, ("Barnett") for his cause of action against the above-named Defendant Tulsa Community College ("TCC"), would state as follows:

1. Barnett is a resident and citizen of the State of Oklahoma. TCC is a public entity providing educational services in Tulsa County.
2. The events giving rise to this lawsuit occurred in Tulsa County making jurisdiction and venue proper.
3. Upon information and belief, the TCC email server and its supporting infrastructure are funded or paid for with public dollars.

4. On July 20, 2015, Barnett served TCC with a request under the OORA for emails from a professor's TCC account. The pertinent language reads as follows:

Please provide any communications between William Carter to Susan Barrett that was sent via e-mail by William Carter or receive(sic) by William Carter via TCC email.

5. TCC responded by invoicing Barnett \$720.00 as a search fee. Barnett paid the fee, but TCC withheld approximately 100 emails because it determined those emails were "purely personal and of a private nature" and therefore not a "record" under the OORA.

6. TCC interpreted the OORA definition of "record" to exempt any email on a publicly funded server that does not substantively address "the transaction of public business, the expenditure of public funds or the administering of public property."

7. TCC's definition of "record" is too narrow, it is inconsistent with the purpose of the OORA, and contrary to the plain language of the statute. The decision to withhold non-privileged emails maintained on a public email server violated the OORA.

8. On February 18, 2016, Barnett submitted a new OORA to TCC based upon its practice of assessing fees to search for records that TCC would not produce. The request reads as follows:

Date of Record (Approximate): July 01, 2015 to current

Request/Nature of Record: Please provide all amounts that TCC has paid to Attorney Tom Vought or his law firm in relation to my request for records, specifically in regards to the 100 e-mails TCC withheld from me, in which I paid TCC for, to and from Susan Barrett and Bill Carter. I understand that privileged information cannot be disclosed, however the amount TCC pays this attorney and Law Firm should qualify as a record. Please also provide a copy of any contract or agreements between TCC and the Law Firm of Tom Vought or with Attorney Tom Vaught.

Investigation into how tax dollars are spent at TCC, and for the interest of the public and I am a tax paying citizen.

9. TCC responded by assessing another search fee despite the lack of any apparent connection between Barnett's request and the pursuit of any private interest.

10. On February 23, 2016, Barnett paid \$674.00 in additional search fees to TCC.

11. That same day, Barnett sent an OORA for all emails from one TCC email account since May 1, 2015.

12. On March 31, 2016, TCC responded by assessing another search fee and withholding 457 emails based on "personal privilege" and 447 emails based on "under review due to FERPA"

13. On April 1, 2016, Barnett served a second OORA for emails from this account since July 27, 2015. TCC did not respond to this request.

14. On May 18, 2016, Barnett sent an OORA to TCC requesting emails on the TCC server that include any of the following terms:

“Nigger”, “Terrorist”, “Queer”, “Fag”, and “Fagot”

15. TCC did not respond to this request.

16. The fees charged by TCC did not appear associated with any work actually performed by TCC, but instead appeared designed to discourage future requests.

17. On July 13, 2016, TCC served Barnett with a letter stating that he had “incurred search fees totaling \$2,053.00. Of this amount, \$674.00 has been paid by Barnett . . . leaving a balance of \$1,379.” In the letter, TCC did not associate any search fee amount with any particular request.

18. TCC then notified Barnett that it would not respond to any future OORA requests that required a search fee until he satisfied TCC’s prior invoices totaling \$1,379.00.

19. TCC’s practice of requiring prepayment of prior search fees before filling future OORA requests violates the OORA’s prohibition against using search fees to discourage citizens from making requests.

WHEREFORE, all premises considered, Plaintiff respectfully requests a declaration that TCC’s policy as stated above violates the OORR, and a permanent injunction against TCC from enforcing this policy in the future, along with all

costs and attorney's fees, and any such other relief the Court deems just and equitable.

Respectfully submitted,

BRYAN & TERRILL



By: _____

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