

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) CHRISTOPHER BARNETT,)
)
Plaintiff,)

v.)

Case No. 18-cv-00064-TCK-FHM

(1) HALL, ESTILL, HARDWICK, GABLE,)
GOLDEN & NELSON, P.C.,)
(2) J. PATRICK CREMIN,)
(3) JOHNATHAN L. ROGERS, AND)
(4) UNIVERSITY OF TULSA, A PRIVATE)
UNIVERSITY,)
Defendants.)

**ANSWER OF DEFENDANTS HALL, ESTILL, HARDWICK, GABLE, GOLDEN &
NELSON, P.C., J. PATRICK CREMIN AND JOHNATHAN L. ROGERS**

COME NOW Defendants Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C., J. Patrick Cremin, and Johnathan L. Rogers (collectively “Defendants”), by and through their counsel of record, and for their answer to the allegations set forth in Plaintiff’s Petition [Dkt. # 2-1], and subject to amendment at the conclusion of all pretrial discovery, do allege and state as follows, to wit:

1. Defendants admit, upon information and belief, that Plaintiff is an individual who resides in Tulsa County, Oklahoma, as alleged in paragraph 1 of Plaintiff’s Petition.
2. The allegations in paragraph 2 of Plaintiff’s Petition are admitted.
3. The allegations in paragraph 3 of Plaintiff’s Petition are admitted.
4. The allegations in paragraph 4 of Plaintiff’s Petition are admitted.
5. The allegations in paragraph 5 of Plaintiff’s Petition are admitted.

6. Defendants admit that the Tulsa County Sheriff and the Oklahoma Attorney General are state actors, as alleged in paragraph 6 of Plaintiff's Petition. The remaining allegations in paragraph 6 constitute conclusions of law, to which no answer is required.

7. The allegations in paragraph 7 of Plaintiff's Petition are denied.

8. The allegations in paragraph 8 of Plaintiff's Petition are denied.

9. Defendants admit, upon information and belief, that Plaintiff is a party to a lawsuit against Tulsa Community College pending in the District Court of Tulsa County, Oklahoma, as alleged in paragraph 9 of Plaintiff's Petition, but lack sufficient information to admit or deny the remaining allegations therein, and, therefore, deny the same.

10. Defendants admit that they are defending Defendant University of Tulsa in the lawsuit alleged and, upon information and belief, admit that on or behalf of the Plaintiff in that lawsuit certain subpoenas duces tecum were issued which resulted in the Attorney General's Office filing a motion to quash in that lawsuit, but otherwise lack sufficient information to admit or deny the remaining allegations contained in paragraph 10 of Plaintiff's Petition, and, therefore, deny the same.

11. Defendants deny the allegations of paragraph 11 of Plaintiff's Petition.

12. Defendants deny the allegation of paragraph 12 of Plaintiff's Petition that they made a false claim of a threat by Plaintiff, but otherwise lack sufficient information to admit or deny the allegations contained in said paragraph, and, therefore, deny the same.

13. Paragraph 13 constitutes an incorporation by reference, as to which no response is required. Should a response be required, Defendants incorporate herein by reference their corresponding responses set forth herein above.

14. The allegations in paragraph 14 of Plaintiff's Petition are denied.

15. The allegations in paragraph 15 of Plaintiff's Petition are denied.

16. Paragraph 16 constitutes an incorporation by reference, as to which no response is required. Should a response be required, Defendants incorporate herein by reference their corresponding responses set forth herein above.

17. Defendants lack sufficient information to admit or deny the allegations contained in paragraph 17 of Plaintiff's Petition, and, therefore, deny the same.

18. The allegations in paragraph 18 of Plaintiff's Petition are denied.

19. The allegations in paragraph 19 of Plaintiff's Petition are denied.

20. Paragraph 20 constitutes an incorporation by reference, as to which no response is required. Should a response be required, Defendants incorporate herein by reference their corresponding responses set forth herein above.

21. The allegations in paragraph 21 of Plaintiff's Petition are denied.

22. Defendants lack sufficient information to admit or deny the allegations contained in paragraph 22 of Plaintiff's Petition, and, therefore, deny the same.

23. Paragraph 23 constitutes an incorporation by reference, as to which no response is required. Should a response be required, Defendants incorporate herein by reference their corresponding responses set forth herein above.

24. The allegations in paragraph 24 of Plaintiff's Petition are denied.

25. The allegations in paragraph 25 of Plaintiff's Petition are denied.

26. The allegations in paragraph 26 of Plaintiff's Petition are denied.

27. Paragraph 27 constitutes an incorporation by reference, as to which no response is required. Should a response be required, Defendants incorporate herein by reference their corresponding responses set forth herein above.

28. The allegations in paragraph 28 of Plaintiff's Petition are denied.

29. The allegations in paragraph 29 of Plaintiff's Petition are denied.

30. The allegations in paragraph 30 of Plaintiff's Petition are denied.

31. Paragraph 31 constitutes an incorporation by reference, as to which no response is required. Should a response be required, Defendants incorporate herein by reference their corresponding responses set forth herein above.

32. The allegations in paragraph 32 of Plaintiff's Petition are denied.

33. The allegations in paragraph 33 of Plaintiff's Petition are denied.

AFFIRMATIVE DEFENSES

Defendants Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C., J. Patrick Cremin, and Johnathan L. Rogers, by way of further answer and affirmative defense, but not in diminution or derogation of the admissions and denials set forth herein above, and subject to amendment at the conclusion of all pretrial discovery, do allege and state as follows, to wit:

1. Plaintiff's claims for violations of 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution are barred, in whole or in part, because the allegedly violative conduct was reasonable.

2. Plaintiff's claims for violations of 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, and for false imprisonment are barred, in whole or in part, pursuant to the holding of *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1968) and its progeny.

3. Plaintiff's claims are barred, in whole or in part, by virtue of Plaintiff's having consented to the complained of conduct, expressly or impliedly.

4. Plaintiff's claims are barred, in whole or in part, by the Oklahoma Citizens Participation Act, 12 O.S. § 1430, *et seq.*

5. Plaintiff's claims are barred, in whole or in part, by the doctrine of equitable estoppel.

6. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

7. Plaintiff's claims are barred, in whole or in part, by the litigation privilege.

8. Plaintiff's claim for false light is barred because the underlying information that Defendants allegedly provided, and which allegedly led to the conduct and damages of which Plaintiff complains, is true.

9. Plaintiff's conduct in speech, in whole or in part, which was directed towards private individuals and did not constitute comment upon matters of political or public concern, was not protected under the First Amendment to the United States Constitution or otherwise.

WHEREFORE, PREMISES CONSIDERED, Defendants Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C., J. Patrick Cremin, and Johnathan L. Rogers respectfully pray that this honorable Court grant them judgment upon the claims of Plaintiff Christopher Barnett, and discharge these Defendants from this lawsuit with their costs, and for such other and further relief as this Court may deem just and equitable in the premises.

Respectfully submitted,

s/Phil R. Richards

Phil R. Richards, OBA #10457

Kelsie M. Sullivan, OBA #20350

RICHARDS & CONNOR

12th Floor, ParkCentre Bldg.

525 S. Main Street

Tulsa, Oklahoma 74103

Telephone: 918/585.2394

Facsimile: 918/585.1449

Email: prichards@richardsconnor.com

ksullivan@richardsconnor.com

**ATTORNEYS FOR DEFENDANTS HALL,
ESTILL, HARDWICK, GABLE, GOLDEN &
NELSON, P.C., J. PATRICK CREMIN, AND
JOHNATHAN L. ROGERS**

CERTIFICATE OF SERVICE

I hereby certify that, on the 6th day of February 2018, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

Dana Jim, Esq. – danajimlaw@gmail.com

**ATTORNEY FOR PLAINTIFF
CHRISTOPHER BARNETT**

John David Lackey, Esq. – johndavid@paulandlackey.com

**ATTORNEY FOR DEFENDANT
UNIVERSITY OF TULSA**

/s/ Phil R. Richards

Phil R. Richards