ORIGINAL

Rule 1.301, Form No. 6

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT - 6 2022
JOHN D. HADDEN
CLERK

HOWARD BERKSON ("Attorney"), in his capacity as a duly licensed and practicing attorney routinely filing, on behalf of himself and his clients, new civil actions in which he and/or his client(s) have been compelled to pay a $10.00 "Lengthy Trial Fund Fee" and all similarly situated people; and JOHN DOE, in his capacity as a non-attorney legal entity able to sue and be sued who, by and through one or more attorneys, has filed new civil litigation in any of the 77 District Courts of Oklahoma and, because said new litigation was filed for him by a lawyer, has been compelled to pay a $10.00 "Lengthy Trial Fund Fee", and all similarly situated legal entities,

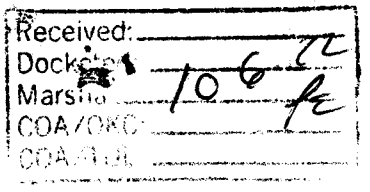
Plaintiffs,

v.

THE STATE OF OKLAHOMA, ex rel., JARI ASKINS, in her official capacity as Administrative Director of the Courts for the State of Oklahoma, and ex. rel. DON NEWBERRY in his official capacity as Tulsa County District Court Clerk, and ex. rel. all other 76 District Court Clerks of the State of Oklahoma,

Defendants.

Case No. 120,589



RESPONSE TO PETITION IN ERROR BY DON NEWBERRY, IN HIS OFFICIAL CAPACITY AS TULSA COUNTY DISTRICT COURT CLERK

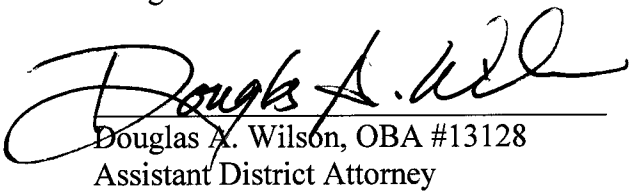
Is appellee willing to participate in an attempted settlement of the appeal by predecisional conference under Rule 1.250?

_____ YES _X_ NO

DATE: October 5, 2022

RECEIVED
OCT - 6 2022
CLERK'S OFFICE

Douglas A. Wilson



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ATTORNEYS FOR DON NEWBERRY

CERTIFICATE OF MAILING TO PARTIES

I hereby certify that on the 5th day October, 2022, I caused a true and correct copy of the Response to Petition in Error to be placed in the U.S. mail, first class postage fully pre-paid, addressed to the following:

James Dunham
2800 Bank of America Center
15 West 6th Street, Suite 2800
Tulsa, OK 74119
elawyer@swbell.net

Edward L. White
829 East 33rd Street
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313 N.E. 21st Street
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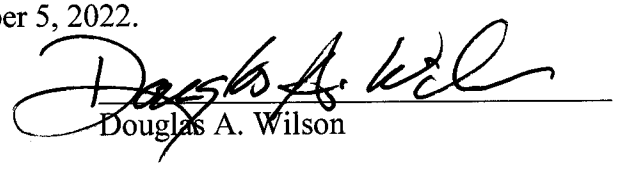
kevin.mcclure@oag.ok.gov
jessica.wilkes@oag.ok.gov

I further certify that a copy of the Response to Petition in Error was mailed to, or filed in, the Office of the Court Clerk of Tulsa County on October 5, 2022.



Douglas A. Wilson

EXHIBIT "A"

APPELLEE DON NEWBERRY'S STATEMENT OF THE CASE

Defendant/Appellee Don Newberry, in his official capacity as Tulsa County District Court Clerk, hereby adopts the statement of the case filed by Defendant/Appellee State of Oklahoma, ex rel. Jari Askins, on August 12, 2022. Additionally, in Defendant Newberry's Motion to Dismiss, to demonstrate lack of "an actual controversy," he requested the District Court take judicial notice that Howard Berkson had *never* filed a case on behalf of a client in Tulsa County, as evidenced by the docket sheets of the District Courts of the State of Oklahoma published on OSCN. *See* Defendant's Motion to Dismiss, p. 4, and Ex. "A" attached thereto, and available online at http://www.oscn.net/dockets/Search.aspx. In response, Berkson argued that he does business as "Boston Avenue Law" and cited to two examples of cases filed by his business in Tulsa County. *See* Response Brief, pp. 4-5, fn. 2 (citing Tulsa County Cases CJ-2022-80 and CJ-2022-81). However, the two Tulsa County cases cited by Plaintiffs were filed by Berkson in January of 2022; whereas, this present case was filed in 2021.

Thus, it remains true that at the time of Plaintiffs' filing of the Petition in this case, Berkson had not previously filed a case on behalf of one of his clients in Tulsa County. There is no actual controversy between him and Tulsa County District Court Clerk Don Newberry arising from Berkson's filing of cases on behalf of his clients in the Tulsa County District Court. Acts taken by Berkson subsequent to the filing of the Petition are obviously not included in the Petition's factual allegations. Defendant Newberry was entitled to dismissal based on Plaintiffs' lack of standing with respect to him.