

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

DEC 22 2016

RICK WARREN
COURT CLERK

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ZIVA BRANSTETTER and BH Media
Group Inc. d/b/a *TULSA WORLD*,

Plaintiffs,

v.

MARY FALLIN, in her official capacity as
GOVERNOR OF THE STATE OF
OKLAHOMA; MICHAEL C.
THOMPSON, in his official capacity as
COMMISSIONER OF THE OKLAHOMA
DEPARTMENT OF PUBLIC SAFETY,

Defendants.

Case No. CV-14-2372
Judge Bryan Dixon

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS' MOTION TO
COMPEL THE GOVERNOR TO SEARCH FOR AND PRODUCE EMAIL RECORDS
MAINTAINED ON NON-GOVERNMENTAL EMAIL ACCOUNTS AND/OR SERVERS
THAT ARE RESPONSIVE TO PLAINTIFFS' OPEN RECORDS REQUEST**

This matter comes before the Court on December 9, 2016 for a hearing on the plaintiffs' motion to compel Defendant Mary Fallin, in her official capacity as Governor of the State of Oklahoma ("Fallin" or the "Governor"), to search for and produce email records maintained on non-governmental email accounts and/or servers that are responsive to Plaintiffs' Open Records Request ("Motion").

By their Motion, plaintiffs sought an order requiring the Governor's Office to conduct a search of non-governmental email accounts used by the Governor or members of her staff, including Mr. Steve Mullins and Mr. Alex Weintz, for records responsive to Plaintiff's ORA Request. Plaintiffs also requested an order requiring the Governor's Office to submit to the Court declarations under penalty of perjury and based on personal knowledge that describe: (1) the date and scope of the search of a non-".gov" email account used by the Governor that was conducted in response to plaintiffs' Motion, including the search terms used; (2) the nature and extent of the use of a non-".gov" email account by the Governor and members of her staff; and (3) the steps—

if any—that were taken to preserve responsive public records located on non-“.gov” email accounts used by the Governor and members of her staff.

Upon review of the briefs, and hearing argument by the counsel for plaintiffs and the Governor, the Court rules as follows:

Plaintiffs’ Motion is GRANTED in part and DENIED in part.

The Governor’s Office is ORDERED to file and serve on or before December 29, 2016 a declaration under penalty of perjury and based on personal knowledge that (1) describes the date and scope of the search of a non-“.gov” email account used by the Governor that was conducted in response to plaintiffs’ Motion, including the search terms used; and (2) states whether the search located any records that do not duplicate those already produced by the Governor.

In all other respects, plaintiffs’ Motion is DENIED. ★

IT IS SO ORDERED this 21st of December, 2016.

CERTIFIED COPY
AS FILED OF RECORD
IN DISTRICT COURT

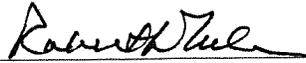
DEC 22 2016

RICK WARREN COURT CLERK
Oklahoma Court
Rick Warren

Bryan C. Dixon
BRYAN C. DIXON
DISTRICT JUDGE

★ This denial is based on the necessity to expedite this Open Records litigation to a Final Order after two (2) years of extensive litigation. The requested search of the non-governmental e-mails of the Governor's staff would unnecessarily prolong this case of significant public interest with little expectation of significant records from these e-mails. There are important legal issues which need to be resolved now and promptly! This e-mail search can certainly await the resolution of the legal issues after a Final Order is made and the appeal completed setting the legal guidance for such a search.

Approved:



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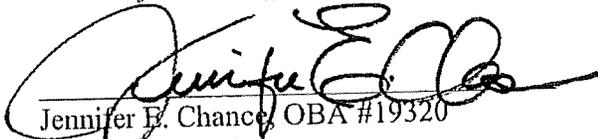
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