

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

JUL 6 2016

RICK WARREN  
COURT CLERK  
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INDEPENDENT SCHOOL DISTRICT NO. 2, )  
TULSA COUNTY, OKLAHOMA; )  
INDEPENDENT SCHOOL DISTRICT NO. 52, )  
OKLAHOMA COUNTY, OKLAHOMA; )  
INDEPENDENT SCHOOL DISTRICT NO. 71, )  
KAY COUNTY, OKLAHOMA; )  
INDEPENDENT SCHOOL DISTRICT NO. 20, )  
MUSKOGEE COUNTY, OKLAHOMA; )  
INDEPENDENT SCHOOL DISTRICT NO. 18, )  
JACKSON COUNTY, OKLAHOMA; )  
INDEPENDENT SCHOOL DISTRICT NO. 14, )  
OTTAWA COUNTY, OKLAHOMA; )  
INDEPENDENT SCHOOL DISTRICT NO. 105, )  
BLAINE COUNTY, OKLAHOMA; )  
and )  
INDEPENDENT SCHOOL DISTRICT NO. 2, )  
KIOWA COUNTY, OKLAHOMA, )

Plaintiffs, )

vs. )

OKLAHOMA TAX COMMISSIONER, STEVE )  
BURRAGE; OKLAHOMA TAX )  
COMMISSIONER DAWN CASH; and )  
OKLAHOMA TAX COMMISSIONER, )  
THOMAS E. KEMP, JR., )

Defendants. )

CASE NO. CV-16-1249

**ANSWER OF DEFENDANTS TO PLAINTIFFS' PETITION  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Comes now the named Defendants, Oklahoma Tax Commissioner Steve Burrage, Oklahoma Tax Commissioner Dawn Cash, and Oklahoma Tax Commissioner Thomas E. Kemp, Jr. (collectively "OTC") and, for its Answer and Defenses to Plaintiff's Petition for Declaratory and Injunctive Relief ("Petition"), states and represents.

1. OTC admits an actual controversy exists between Plaintiff school districts and OTC regarding the construction and application of the statute governing apportionment of motor vehicle collections to, inter alia, school districts. OTC denies the OTC has misapplied the statute but admits Plaintiff school districts received less revenue in some months than Plaintiff school districts received for the same month in the previous year.

2. OTC is without sufficient information upon which to base an admission or denial of the allegations of the Petition, paragraph 2, as the alleged facts are within the knowledge of Plaintiff School districts, and not the OTC.

3. OTC admits the allegations of Petition, paragraph 3.

4. OTC admits the OTC apportions 36.20% of motor vehicle collections to school districts. OTC also admits that, since July 1, 2015, OTC has apportioned motor vehicle collections as described in the affidavit of Jennelle Enevoldsen, Director, Management Services Division, Oklahoma Tax Commission, which is attached as Exhibit 1 to the Petition. OTC denies all remaining allegations of Petition, paragraph 4.

5. The provisions of 47 O.S. 2015 Supp. § 1104 speak for themselves, and the OTC denies Plaintiff school districts added emphasis in Petition, paragraph 5.

6. The provisions of 47 O.S. 2015 Supp. § 1104 speak for themselves, and the OTC denies any allegations of Petition, paragraph 6.

7. OTC admits motor vehicle collections were less than the motor vehicle collections of the corresponding month of the preceding year for all months except September 2015, December 2015, and March 2016, and that OTC apportioned the motor vehicle collections for these months based on the proportion that a school districts average daily attendance (“ADA”) bore to the total

ADA for all school districts. OTC denies all other allegations contained in Petition, paragraph 7.

8. OTC denies the allegations of Petition, paragraph 8, except OTC admits Plaintiff school districts received less motor vehicle collections in fiscal year 2016 than Plaintiff school districts received in fiscal year 2015.

9. OTC denies the allegations of Petition, paragraphs 9 – 12, in that the relief sought by Plaintiff school districts would have this Court require OTC, pursuant to the same apportionment statute, to apportion motor vehicle collections using two separate and distinct methods, one method for Plaintiff school districts and another method for the remaining over 400 school districts who are not Plaintiff school districts.

#### **STATEMENT OF DEFENSES**

10. The controversy at issue herein is not one between parties with opposing interests. OTC has a finite amount of motor vehicle collections each month. The OTC apportions all the motor vehicle collections collected on a monthly basis to over 400 school districts, including Plaintiff school districts. Due to amendment to 47 O.S. 2015 Supp. § 1104, effective July 1, 2015, which removed the OTC's ability to use general revenue funds to offset a shortage in motor vehicle collections, the OTC had insufficient motor vehicle collections to pay school districts the same amount the school districts received in the same month in the preceding year.

11. The OTC apportions motor vehicle collections to **all** school districts from the finite amount of motor vehicle collections each month. Any increase the amount of money apportioned to Plaintiff school districts would result in a corresponding decrease in the amount of money apportioned to non-Plaintiff school districts. As such, all non-Plaintiff school districts have an interest which would be affected by the Court's declaration. Pursuant to 12 O.S. 2011 § 1653(A), all

non-Plaintiff school districts should be made parties to the instant action prior to the action proceeding.

12. The OTC reserves the right to seek amendment of its Answer herein to set forth such other and further matters of defense as may be discovered or determined in the course of these proceedings.

Wherefore, premises considered, Oklahoma Tax Commissioners Steve Burrage, Dawn Cash, and Thomas E. Kemp, Jr., named Defendants herein, pray that this Honorable Court withhold consideration of Plaintiff school districts petition until all non-Plaintiff school districts parts to this action and for such other and further relief in the premises as to which they may be entitled in which, to this Honorable Court, may seem just, equitable and permissible.

Respectfully submitted,



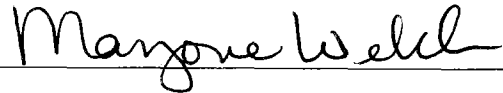
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COUNSEL FOR DEFENDANTS,  
OKLAHOMA TAX COMMISSION

**CERTIFICATE OF MAILING TO PARTIES**

This is to certify that on the 6<sup>th</sup> day of July, 2016 a true and correct copy of the above and foregoing *Answer of Defendants to Plaintiffs' Petition for Declaratory and Injunctive Relief* was mailed by depositing it in the U.S. Mail, postage prepaid, by the undersigned, to the following:

Robert A. Nance  
Riggs, Abney, Neal, Turpen  
Orbison & Lewis  
528 NW 12<sup>th</sup> Street  
Oklahoma City, OK 73103

Stephanie L. Thenab  
Riggs, Abney, Neal, Turpen  
Orbison & Lewis  
502 West Sixth Street  
Tulsa, OK 74119

  
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