

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

**KENNETH BUCKLEY, on behalf of)
D.D.B., a minor child, PHILLIP and)
ANDREA CONNELLY, on behalf of)
E.J.D.C., a minor child, CLINT and)
CATHY STAPLETON, on behalf of)
K.N.S., a minor child, BOBBY and)
RUTH SWEET, on behalf of M.N.S., a)
minor child, MICHELLE SUMTER,)
on behalf of M.N.S., a minor child,)
FRANCIS SHOEMAKER, on behalf of)
D.W.S,)**

Plaintiffs,

vs.

**INDEPENDENT SCHOOL DISTRICT)
NO. 4 of ROGERS COUNTY,)
OKLAHOMA, a/k/a OOLOGAH)
TALALA PUBLIC SCHOOLS, CARA)
JONES, individually, MELISSA)
GIBSON, individually, KENNETH)
KINZER, individually, RICK)
THOMAS, individually, BOBBY)
SORDO, individually, CITY OF)
OWASSO, a political subdivision,)
jointly and severally,)**

Defendants.

Case No. 10-CV-240-GKF-PJC

**DEFENDANTS CITY OF OWASSO AND BOBBY SORDO’S
RESPONSE AND OBJECTION TO PLAINTIFFS’ MOTION FOR
EXPEDITED SETTLEMENT CONFERENCE**

Defendants City of Owasso (“Owasso”) and Bobby Sordo (“Officer Sordo”) hereby provide their Response and Objection to Plaintiffs’ Motion for Expedited Settlement Conference [Dkt. No. 68], and state as follows:

1. Plaintiffs filed suit against Officer Sordo and the City of Owasso, alleging outrageous claims of wrongful conduct by Officer Sordo which, unfortunately, have spread through the Owasso and Oologah area media and social-media mills. Despite what may have made good fodder for newspaper sales and website discussion, Plaintiffs' allegations against Officer Sordo have proven to be false. Now, faced with the prospect of public exposure of their reckless claims, Plaintiffs seek an expedited settlement conference to explore whether Owasso and Officer Sordo would like to pay them money. Owasso and Officer Sordo object unless it is the intent of Plaintiffs to negotiate paying the legal fees and costs of the City of Owasso and Officer Sordo, and to issue a public apology.

2. Indeed, on June 7, 2010, the Court dismissed all of the Plaintiffs claims against Officer Sordo with the exception of two students for whom the initial pleadings did not provide enough information to lead to their dismissal as well. Those students are identified as "K.N.S." and "D.W.S."

3. K.N.S. was not in a classroom when the police dog came through, but was called to the office during the subsequent investigation. The Court ruled on June 7, 2010, that the record at that juncture was unclear regarding the reasonableness of K.N.S. being summoned to the office and subject to a search as she alleged in the First Amended Complaint. Part of the record included a sworn affidavit signed by K.N.S., which made the following allegations against Officer Sordo:

- A. That Officer Sordo was present when she was questioned and took part in questioning her;
- B. That Officer Sordo asked her questions in "rapid-fire sequence" regarding the identity of her friends and whether she smoked marijuana;
- C. That Officer Sordo told her she need to tell everything she knew, with the threat of suspension from school;

- D. That Officer Sordo accused her of lying and was “yelling and shouting” at her; and,
- E. That “they” searched her phone.

See Exhibit 3 to Plaintiffs’ Response to Motion for Summary Judgment (Dkt. No. 33-4), pp. 2-5, ¶¶ 610, 11, 13 - 15, and 25.

4. During the June 7, 2010, hearing, counsel for Plaintiffs echoed those disturbing allegations in open court before members of the public and media. Her claims were allowed to survive the initial dispositive motions.

5. The next day, June 8, 2010, during the sworn deposition of K.N.S., she admitted ALL of the above allegations against Officer Sordo were FALSE, and further admitted that she never met Officer Sordo; never spoke to Officer Sordo; and, was never even in the same room with Officer Sordo. As such, counsel for Plaintiffs has promised to dismiss all of the claims of K.N.S. against Officer Sordo.

6. The only other student with a remaining claim against Officer Sordo is identified as D.W.S. The Court allowed his claim to proceed because, as of June 7, 2010, there was not enough evidence in the limited pleadings to dismiss the allegation by D.W.S. that Officer Sordo tampered with a field test of marijuana alleged to have been found in the possession of D.W.S. on the morning of February 18, 2010.

7. The First Amended Complaint and the sworn and executed Affidavit of D.W.S., filed by Plaintiffs’ counsel in Response to Motion for Summary Judgment, alleges Officer Sordo “only” placed “a pencil one time between my eyes” to determine D.W.S. failed a field sobriety test, and, as to the issue of the field test, D.W.S. states and alleges he observed a “red liquid substance” on the

bottom of the test kit “before Officer Sordo scraped anything from my pockets and when I looked at his hand, he quickly put it under the table.” *See* Affidavit of D.W.S. (Doc. No. 33-9), p. 2, ¶¶ 6 and 11.

8. Further, during the June 7, 2010, hearing, counsel for Plaintiffs alleged to the Court and everyone present that Officer Sordo illegally “planted or tampered with evidence” with respect to D.W.S.

9. On June 14, 2010, D.W.S. admitted in his deposition that he was under the influence of marijuana at the Oologah-Talala middle school on February 18, 2010, from marijuana he had stolen from a non-party to this lawsuit; that the field sobriety test he failed was an extensive hand-eye response examination, and that his affidavit statement regarding seeing any colored chemical in the field test kit before the test was conducted was not true. D.W.S. conceded, in relevant part, that Paragraphs 6 and 11 of his affidavit and the companion allegations in the First Amended Complaint are not true.

10. After the deposition of D.W.S., counsel for Plaintiffs has advised it is his intent to dismiss all claims against all parties brought on behalf of D.W.S., the same student who counsel told the Court was the victim of “planted” or “tampered” evidence by Officer Sordo. The reckless and inflammatory allegations were untrue.

11. The above recitation is a necessary sampling for the Court to understand why Officer Sordo and the City of Owasso have no intention of paying a single penny to the Plaintiffs or their attorney, and why it is now readily apparent that Plaintiffs’ Motion for Expedited Settlement Conference is nothing more than a last-ditch effort to squeeze money out of what is left of their spurious claims.

Respectfully submitted,

**NEWTON, O'CONNOR, TURNER & KETCHUM,
A PROFESSIONAL CORPORATION**

By: /s/ Keith A. Wilkes

Keith A. Wilkes, OBA #16750

2700 Bank of America Center

Fifteen West Sixth Street

Tulsa, Oklahoma 74119

Phone (918) 587-0101

Fax (918) 587-0102

kwilkes@newtonoconnor.com

greilly@newtonoconnor.com

**ATTORNEYS FOR DEFENDANTS CITY OF
OWASSO AND BOBBY SORDO**

CERTIFICATE OF SERVICE

- I hereby certify that on June 18, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Brendan M. McHugh, Esq.
mchugh8@att.net

Eric D. Wade, Esq.
ericw@rflaw.com

J. Douglas Mann, Esq.
dougman@rflaw.com

Matthew J. Ballard, Esq.
mballard@rflaw.com

- I hereby certify that on June 18, 2010, I served the foregoing document by mail on the following, who are not registered participants of the ECF System:

None

/s/ Keith A. Wilkes
Keith A. Wilkes