

FILED IN DISTRICT COURT
 OKLAHOMA COUNTY
 IN THE DISTRICT COURT OF OKLAHOMA COUNTY
 STATE OF OKLAHOMA

MAR 17 2014

TIM RHODES
 COURT CLERK

VANDELAY ENTERTAINMENT, LLC)
 d.b.a. THE LOST OGLE,)
 Plaintiff,)

vs.)

Case No: CV-2013-763

MARY FALLIN, in her official)
 Capacity as GOVERNOR OF THE)
 STATE OF OKLAHOMA; STATE)
 OF OKLAHOMA, ex rel. OFFICE OF)
 THE GOVERNOR,)
 Defendants.)

Judge: Swinton

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

COMES NOW, Vandelay Entertainment, LLC, doing business as "The Lost Ogle," Plaintiff herein, by and through its attorney of record, Brady R. Henderson of the American Civil Liberties Union of Oklahoma Foundation, and moves this Honorable Court to render judgment in favor of Plaintiff for injunctive and declaratory relief as previously sought herein. In support of said Motion, and as required by 12 O.S. §2056 and Rule 13 of the Rules of District Courts of Oklahoma, Plaintiff provides the following:

1. Plaintiff hereby incorporates all allegations from Plaintiff's Petition for Injunctive and Declaratory Relief, filed previously herein, which seeks release of one hundred (100) pages of public records withheld from Plaintiff following a request to inspect public records under the Oklahoma Open Records Act.
2. Plaintiff is a party claiming relief, which filed its original Petition more than twenty days prior to this Motion, as mandated by 12 O.S. §2056.

3. By its plain language, the Oklahoma Open Records Act places the burden on public officials and public bodies to allow access to records absent specific and explicit exceptions allowing denial.
4. In the instant case, it is undisputed by the parties that Defendant Governor Fallin and/or the Office of the Governor have withheld documents otherwise subject to disclosure and public access based on purported privileges the legality and applicability of which are disputed by Plaintiff.
5. The dispute on whether such privileges exist, and whether the same allow denial of access, is a dispute concerning application of law, not issues of fact, and as such is appropriate and ripe for summary judgment.
6. As required by Rule 13 of the Rules for District Courts of Oklahoma before summary judgment may be granted, there is no substantial controversy as to any material fact in this case.
7. As a matter of law, Plaintiff is entitled to summary judgment ordering the release of all records not protected by Attorney-client Privilege as defined in 12 O.S. §2502 generally and limited by 12 O.S. §2502(D)(7) specifically, as no other privileges claimed by Defendants are both legally permitted and applicable in the present case.
8. Plaintiff has filed with this Motion a Brief in Support, detailing the application of Oklahoma law to the present controversy and presenting a summary of the legal arguments on which Plaintiff's entitlement to prevail on the merits is ultimately founded.

WHEREFORE, premises considered, Plaintiff prays this Honorable Court grant this Motion for Summary Judgment and issue an Order compelling one or both Defendants to release the remainder of the public records requested, to which Plaintiff is entitled under the Oklahoma Open Records Act. Plaintiff reserves the right to supplement and/or amend this pleading if appropriate and to move for an Order

awarding attorney fees and costs, should this Motion for Summary Judgment be granted or Plaintiff otherwise prevail on the merits.

Respectfully Submitted,



Brady R. Henderson, OBA#21212
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CERTIFICATE OF DELIVERY

The undersigned does hereby certify that on the day of filing, a true and correct copy of the above and foregoing is being delivered to Senior Assistant Attorneys General Neal Leader and Sandra Rinehart at the office of the Attorney General of Oklahoma, via First Class U.S. Mail, postage prepaid.

