

claim against the above named Defendant that involves questions of law and fact in common with those that are involved in the original action, and that this intervention to assert the claim will not unduly delay or prejudice the adjudication right's of the original parties. The claims of the OSTA are set out in "Exhibit A", the Proposed Petition In Intervention.

This Motion is based on this Notice, the attached Affidavit of Russell Knoke, President of the OSTA, the Proposed Petition in Intervention, and on all of the pleadings and records hereto filed in this action.

Respectfully submitted,

GARY J. JAMES & ASSOCIATES, P.C.



GARY J. JAMES, OBA# 12718
P.O. Box 2443
Oklahoma City, OK 73101
(405) 521-9900 Phone
(405) 488-0529 Fax

NOTICE OF HEARING

Please be advised that on the 7th day of April, 2010
at 10:00 AM PM, counsel for the OSTA will move for leave to intervene as a
Plaintiff in the above styled action.

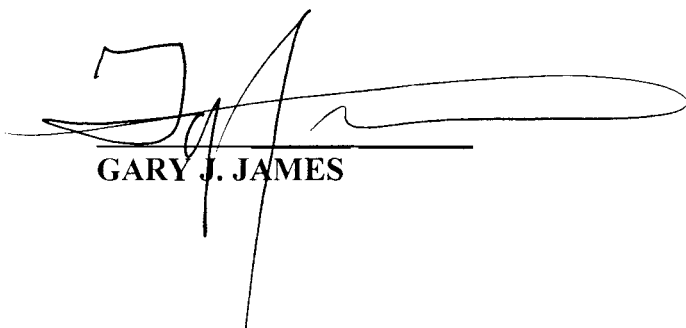
CERTIFICATE OF MAILING

This is to certify that on the 31 day of MARCH, 2010, I mailed a true and correct copy of the above and foregoing instrument to:

Kevin R. Donelson, Esq.
Fellers, Snider, Blankenship, Bailey & Tippens, P.C.
100 N. Broadway, Ste. 1700
Oklahoma City, OK 73102-8820
(405) 232-0621 Phone
(405) 232-9659 Fax

The State of Oklahoma ex rel. Oklahoma Office of
Personnel Management
2101 N. Lincoln Blvd.
Jim Thorpe Building
Oklahoma City, OK 73105-4904

Oklahoma Attorney General's Office
313 N.E. 21st St.
Oklahoma City, OK 73105
(405) 521-3921 Phone
(405) 521-6246 Fax



GARY J. JAMES

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

**OKLAHOMA PUBLIC EMPLOYEES)
ASSOCIATION,)**

Plaintiff,)

CJ-2010-2623

v.)

**STATE OF OKLAHOMA *ex rel.*)
OKLAHOMA OFFICE OF PERSONNEL)
MANAGEMENT)**

Defendant,)

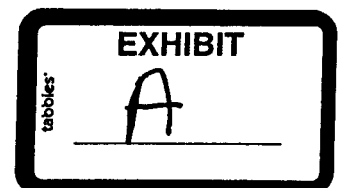
**OKLAHOMA STATE TROOPERS)
ASSOCIATION,)**

**Applicant for
Intervention.**

PETITION IN INTERVENTION

COMES NOW, the Oklahoma State Troopers Association, hereinafter “OSTA”, by and through their attorney of record, Gary J. James, and hereby files their Petition In Intervention in the above case. In support of their Petition, the OSTA alleges and states:

1. The OSTA is a 501(C)(3) non-profit association of state of employees of the Oklahoma Department of Public Safety, assigned to the Oklahoma Highway Patrol and Communications Division and taxpaying citizens of the State of Oklahoma.
2. The Defendant, State of Oklahoma, ex rel., Oklahoma Office of Personnel Management, hereinafter “OPM”, is a public body responsible for maintaining personnel records of State of Oklahoma employees.



3. On February 19, 2010, the Oklahoma Publishing Company d/b/a the Daily Oklahoman, submitted an Open Records Request to OPM requesting that all records related to “Employee Identification” be made available for inspection. This request was for information for every employee of the State of Oklahoma, including the dates of birth of each employee, and employee identification numbers.
4. That the Oklahoma Public Employees Association filed its Petition for Declaratory Judgment and Injunctive Relief on March 29, 2010. Included in that filing was Plaintiff’s Motion for Temporary Restraining Order and Temporary Injunction and Brief in Support surrounding the release of such “Employee Identification” records.
5. On November 30, 2009, the Oklahoma Attorney General issued an opinion addressing the issues herein, **See Okla. Op. Att’y Gen. No. 09-33, 2009 OK AG 33**. The Oklahoma Attorney General ruled that the Oklahoma Open Records Act at **51 O.S. § 24A.1 et seq.**, does not expressly exempt a state agency’s dates of birth as confidential. Further, the Attorney General ruled that it would ultimately be within the discretion of the relevant public bodies to grant or deny such requests. That is, that a state agency “may, but is not required to, keep confidential a personnel record, or information contained in a personnel record, that discloses an employee’s birth date if it determines that disclosure would constitute a clearly unwarranted invasion of the employee’s personal privacy.”, and that public bodies would have to make a case by case determination regarding this

issue, because “a general policy prohibiting disclosure would constitute a legislative determination beyond the authority of a public body.”

6. That Russell Knoke is the duly elected and authorized President of the OSTA. Further, that Russell Knoke is a state employee, working at the Oklahoma Department of Public Safety and assigned to the Oklahoma Highway Patrol. As such, the rights of Russell Knoke would be affected by the release of such personal identifiers., i.e. “Employee Identification” (See Exhibit A).
7. That as contemplated by the Oklahoma Attorney General Opinion, **2009 OK AG 33**, a state agency may have a right not to disclose an employee’s personal identifiers if it determines that a disclosure would constitute an invasion of the employee’s personal privacy. Such request made to OPM removes the Oklahoma Department of Public Safety from the ability to protect its law enforcement officers from the release of such personal identifiers.
8. That upon the release of an individual’s name, date of birth and employee identification number, a variety of personal and sensitive information can be gleaned by individuals.
9. If this information is disclosed, irreparable harm will result to all employees of the State of Oklahoma, including those of member’s of the OSTA. The information including names, dates of birth, and employee identification numbers of law enforcement officers could result in obvious and substantial risks for these specific employees of the State of Oklahoma. As such, injunctive relief should be granted.

10. The OSTA adopts the averments in the Petition for Declaratory Judgment and Injunctive Relief filed by the Oklahoma Public Employees Association in the above captioned case.
11. That the OSTA adopts the Oklahoma Public Employees Association Motion for Temporary Restraining Order and Temporary Injunction and Brief in Support and joins in that request that injunctive relief be granted.
12. The OSTA, acting on behalf of its members, has an interest in the disclosure of records that is direct, immediate and substantial. There is an actual justiciable controversy whether this information should be disclosed. As such, this Court should enter a declaratory ruling preventing the release of such personal identifiers.
13. Pursuant to **12 O.S. § 2024**, the OSTA should be allowed to intervene as a matter of right. In that the interest of the OSTA in the release of the information by the OPM is such, as a practical matter, that it will impair or impede the OSTA's ability to protect their interest.

12 O.S. § 2024(A) provides:

A. INTERVENTION OF RIGHT.

Upon timely application anyone shall be permitted to intervene in an action:

1. When a statute confers an unconditional right to intervene; or
2. When the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest.

The OSTA, as set forth above, believes that it has an absolute right to intervene.

In the alternative, the OSTA further sets forth that should the Court find that the OSTA does not have an absolute right to intervene, that the Court should permit the OSTA to intervene.

12 O.S. § 2024(B) provides:

B. PERMISSIVE INTERVENTION.

Upon timely application anyone shall be permitted to intervene in an action:

1. When a statute confers a conditional right to intervene; or
2. When an applicant's claim or defense and the main action have a question of law or fact in common.

In accordance with **12 O.S. § 2024(B)**, the Oklahoma courts have ruled:

“Intervention should be allowed upon proper allegations in the petition showing the party has an interest in the subject of the litigation”. **Grand River Dam Authority v. Brogna, 1991 OK CIV APP 104, 827 P.2d 901**, citing **Morton v. Baker, 183 Okl. 406, 82 P.2d 998 (1938)**.

14. That Kevin Donelson, counsel for the Oklahoma Public Employees

Association has no objection to the Intervention by the OSTA in this case.

WHEREFORE, the Intervenors, the OSTA prays that this Court issue a declaratory ruling holding the disclosure of the dates of birth of all members of the OSTA would constitute an unwarranted invasion of the personal privacy of the members of the OSTA and grant injunctive relief against the Defendant from releasing such documents.

Respectfully submitted,

GARY J. JAMES & ASSOCIATES, P.C

GARY J. JAMES, OBA# 12718

P.O. Box 2443

Oklahoma City, OK 73101

(405) 521-9900 Phone

(405) 488-0529 Fax

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

**OKLAHOMA PUBLIC EMPLOYEES)
ASSOCIATION,)**

Plaintiff,)

CJ-2010-2623

v.)

**STATE OF OKLAHOMA *ex rel.*)
OKLAHOMA OFFICE OF PERSONNEL)
MANAGEMENT)**

Defendant,)

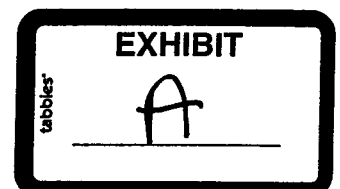
**OKLAHOMA STATE TROOPERS)
ASSOCIATION,)**

**Applicant for
Intervention.**

AFFIDAVIT OF RUSSELL KNOKE

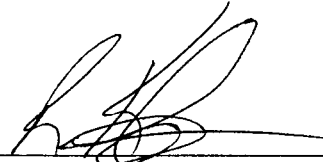
The Affiant sayeth:

1. That Russell Knoke is the duly elected President of the Oklahoma State Troopers Association, hereinafter "OSTA".
2. The OSTA is a 501(C)(3) non-profit association of state of employees of the Oklahoma Department of Public Safety, assigned to the Oklahoma Highway Patrol and Communications Division and taxpaying citizens of the State of Oklahoma.
3. That Russell Knoke is a state employee assigned as a Trooper to the Oklahoma Highway Patrol.
4. That the release of any personal identifiers of Russell Knoke and all members of the OSTA will constitute an unwarranted invasion upon their privacy, including



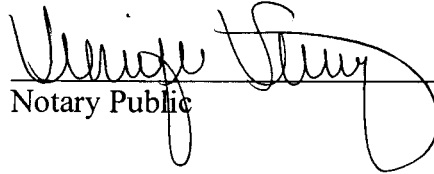
substantial risks to their personal safety, personal safety of their families, and any and all property of the members of the OSTA.

5. That Russell Knoke is over the age of 21 and has personal knowledge of the matters set forth herein.



RUSSELL KNOKE

SUBSCRIBED AND SWORN TO before me this 31st day of March, 2010.



Notary Public

SEAL

My commission expires: _____

