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

MUSCOGEE (CREEK) NATION, a federally recognized Indian Tribe, Plaintiff, vs. CITY OF TULSA; G.T. BYNUM, in his official capacity as Mayor of City of Tulsa; WENDELL FRANKLIN, in his official capacity as Chief of Police, Tulsa Police Department; and JACK BLAIR, in his official capacity as City Attorney for City of Tulsa, Defendants.	)	Case No. 23-CV-490-JDR-SH

GOVERNOR J. KEVIN STITT'S NOTICE OF REQUIRED DISMISSAL FOR NON-JOINDER OR, IN THE ALTERNATIVE, MOTION TO INTERVENE

Respectfully submitted by:

BENJAMIN M. LEPAK, OBA No. 30886
General Counsel
OFFICE OF GOVERNOR J. KEVIN STITT
2300 N. Lincoln Blvd., Suite 212
Oklahoma City, OK 73105
Phone: (405) 521-2342
Benjamin.lepak@gov.ok.gov

AUDREY A. WEAVER, OBA No. 33258
Deputy General Counsel
OFFICE OF GOVERNOR J. KEVIN STITT
2300 N. Lincoln Blvd., Suite 212
Oklahoma City, OK 73105
Phone: (405) 521-2342
Audrey.weaver@gov.ok.gov

REMINGTON D. DEAN, OBA No. 35581
Deputy General Counsel
OFFICE OF GOVERNOR J. KEVIN STITT
2300 N. Lincoln Blvd., Suite 212
Oklahoma City, OK 73105
Phone: (405) 521-2342
Remington.dean@gov.ok.gov

Counsel for Non-Party J. Kevin Stitt, Governor of Oklahoma

March 14, 2025

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Oklahoma Constitution

Rules

INTRODUCTION

This lawsuit brought by the Muscogee (Creek) Nation ("Tribe") against officials of the City of Tulsa (collectively "City of Tulsa") seeks to curtail the City of Tulsa's exercise of fundamental, police powers that "derive[] from the State of Oklahoma." Doc. 2 at ¶ 19. At every turn, the Tribe invokes the State's sovereign police power. The Tribe seeks "a declaratory judgment that Tulsa lacks criminal jurisdiction over Indians within the Creek Reservation" and seeks to enjoin the very act of "exercising criminal jurisdiction" within the territorial bounds of the State of Oklahoma. *Id.* at ¶ 21, p. 11. The Tribe has made the State of Oklahoma, from whose sovereign authority the Tribe concedes Tulsa's criminal jurisdiction flows, a necessary and indispensable party. And yet, the State is notably absent from this lawsuit. The Tribe has not named the State nor any of its officials as a Defendant, and neither Tulsa nor this Court has raised the issue of the State's non-joinder. But this Court has an independent obligation to consider this dispositive issue *sua sponte*. And because this case squarely implicates the State's interests, the State is a necessary and indispensable party with a profound interest in the outcome. The practical problem for the parties and the Court, however, is that the State of Oklahoma cannot be joined in this suit because the State (and her prosecutorial arms) enjoy absolute sovereign immunity from suit based on prosecutorial decisions.

Consequently, Governor J. Kevin Stitt ("Governor"), in his official capacity and pursuant to his authority under OKLA. CONST. art. VI, §§ 2, 8 and 74 O.S. §§ 6, 18c(A)(4)(a), respectfully submits this notice of the Court's independent obligation to dismiss, *sua sponte*, the case in its entirety for failure to join the State a necessary party. In the alternative, the Governor respectfully moves the Court to intervene on behalf of the State of Oklahoma, without waiving any rights or affirmative defenses, and for the sole purpose of seeking immediate dismissal of this case and protecting the otherwise unrepresented interests of the State. In the absence of an outright dismissal, the Governor should be allowed to intervene to protect the State's interests.

BACKGROUND

The Tribe initiated this lawsuit in the fall of 2023, challenging the City of Tulsa's exercise of criminal jurisdiction over Indians in the Creek Reservation by prosecuting traffic offenses.[1] The Tribe seeks a declaratory judgment "that Tulsa lacks criminal jurisdiction over Indians for conduct occurring within the Creek Reservation" and a permanent injunction preventing "Tulsa from exercising criminal jurisdiction over Indians for conduct occurring within the Creek Reservation . . . ." Doc. 2 at p. 11; *see also id.* at ¶ 21 (asking the Court to "issu[e] a declaratory judgment that Tulsa lacks criminal jurisdiction over Indians within the Creek Reservation, and [] enjoin[] Tulsa from prosecuting Indians under color of such jurisdiction going forward.").

The foundational dispute between the parties in this lawsuit concerns the City of Tulsa's exercise of criminal jurisdiction that is wholly "derived from the State of Oklahoma" as a "municipal corporation organized under Oklahoma law . . . ." *Id.* at ¶ 19. The Complaint inextricably relies on and attacks the State of Oklahoma's sovereign right to exercise criminal jurisdiction within its territory. For example, the Tribe asserts that Tulsa "claims, despite a wealth of controlling precedent to the contrary, that the State of Oklahoma (and, derivatively, Tulsa) enjoys criminal jurisdiction over Indians within the Creek Reservation based on the reasoning of *Oklahoma v. Castro-Huerta*, 142 S. Ct. 2486 (2022)[,]" *id.* at ¶ 8, that "Tulsa and its officials possess only those powers derived from the State of Oklahoma," *id.* at ¶ 24, and that "states and their political subdivisions" are foreclosed "from criminally prosecuting Indians for conduct within Indian country." *Id.* at ¶ 38; *see also id.* at ¶ 48 ("Within its Reservation, the Creek Nation and the United States possess criminal jurisdiction over Indians exclusive of the State of Oklahoma and its political subdivisions").

[1] The Tribe, notably, does not distinguish between Indians who are members of the Muscogee (Creek) Nation and non-member Indians, a matter that has been the subject of litigation subsequent to *McGirt v. Oklahoma*, 591 U.S. 894 (2020), *see Oklahoma v. Castro-Huerta*, 597 U.S. 629, 633 (2022), and is still very much a contested legal question, involving even these same two parties, *see City of Tulsa v. O'Brien*, 2024 OK CR 31, __ P.3d __; *Stitt v. City of Tulsa*, 2025 OK CR 6, __ P.3d __.

The briefing on the Tribe's motion for an injunction only solidifies the conclusion that the central dispute in this case challenges the State's exercise of criminal jurisdiction. The Tribe argues that "Tulsa's governmental powers are 'derived *solely*' from the State of Oklahoma[,]" which "includes its powers of criminal prosecution." Doc. 9 at 8 (internal citations omitted). The Tribe repeatedly references and focuses on the State of Oklahoma's criminal jurisdiction. *See, e.g., id.* at 1 ("Oklahoma (and by delegation Tulsa) enjoys criminal jurisdiction."); *id.* at 2 ("'Oklahoma cannot come close' to establishing that Congress has authorized it to exercise criminal jurisdiction over Indians on the Creek Reservation."); *id.* at 8–12, 15–17, 19–20 (repeatedly referencing "state criminal jurisdiction" or "state jurisdiction"). Accordingly, the Tribe attempts to distinguish *Oklahoma v. Castro-Huerta*, 597 U.S. 629 (2022), a case involving the *State's* "jurisdiction over crimes committed in Indian country . . . ." *Id.* at 15; *see also id.* at 2 (arguing "the Tenth Amendment reserved to states no measure of criminal jurisdiction over Indians in Indian country."); *id.* at 8 ("Thus, if *Castro-Huerta* does not support Oklahoma's jurisdiction, it cannot support Tulsa's—and that is the case."). Understandably, then, Tulsa likewise asserts "[t]he City's State-derived jurisdiction" in its brief. Doc. 29 at 4; *see also id.* at 3 ("The State has, by its Constitution, permitted the City to exercise both criminal and traffic jurisdiction within the City limits."); *id.* at 4–8 (repeatedly referencing "State-derived jurisdiction," "City/State jurisdiction," or the "State's jurisdiction"); *id.* at 10 (defending "[t]he City/State interests").

Tulsa filed a Motion to Dismiss shortly after this suit was filed, arguing in large part that the Court should dismiss the case under the *Younger* and *Rooker-Feldman* abstention doctrines. *See* Doc. 33 at 9, 16–17.[2] While that motion to dismiss was still pending, the United States sought to intervene as

[2] The same themes surrounding the State's exercise of criminal jurisdiction are evident in the briefing on Tulsa's Motion to Dismiss. *See, e.g.,* Doc. 28 at 2 ("The Nation's case is premised on the idea that the State of Oklahoma ('the State'), and therefore the City, has no jurisdiction over Indians within the Nation's reservation boundaries . . . ."); Doc. 33 at 6–7 (focusing on "state criminal jurisdiction"); *id.* at 15 (describing the central question as "[w]hether states possess jurisdiction over Indians in Indian country").

a plaintiff. *See* Doc. 39. This development seemingly set off a chain of motions to intervene from non-parties, many of whom attempt to appear *pro se*. *See, e.g.,* Docs. 44–45, 50, 54–55, 57, 61, 63, 69, 79, 108, 116. Despite the pending motion to dismiss that has yet to be resolved, on December 16, 2024, after an electoral change in the leadership of the City of Tulsa, the parties advised the Court they "have recently engaged in active settlement discussions in an effort to resolve this matter by agreement between the parties" and sought a thirty-day stay. Doc. 117 at ¶ 3. The Court granted that 30-day stay. Doc. 118. The parties sought (and were granted) another 30-day extension of that stay on January 15, 2025. *See* Docs. 119–20. Though the City of Tulsa has not formally withdrawn its motion to dismiss, its representatives through these filings and other public statements have signaled a willingness to abandon defense of the State's interests in this litigation. *See* Tristan Loveless, NONDOC, *Keith, Nichols and VanNorman talk homelessness, juvenile center and more in Tulsa mayoral debate* (Aug. 9, 2024) (discussing statements from then-mayoral candidate Nichols "advocat[ing] that the city 'drop the suits'").[3]

The prospect of this case being resolved in any manner other than an outright dismissal has now prompted the Governor to file this notice and alternative motion to intervene with the Court. The Governor is the State's "Chief Magistrate," vested with "Supreme Executive power . . . ." OKLA. CONST. art. VI, § 2. The Governor has an express duty to "cause the laws of the State to be faithfully executed" and to "be a conservator of the peace throughout the State." OKLA. CONST. art. VI, § 8. As the Oklahoma Supreme Court recently confirmed, "the Governor's constitutionally-granted Supreme Executive power[] and statutorily-granted authority . . . gives him the right to represent the State and choose his counsel in defense of the action." *Cherokee Nation v. U.S. Dep't of the Interior*, 2025 OK 4, ¶ 37, __P.3d __ (Jan. 22, 2025) (citing OKLA. CONST. art. VI, § 2; 74 O.S. §§ 6, 18c(A)(4)(a)). Thus, the Governor has the unequivocal "power to employ counsel to protect the rights or interests of the state in any action or proceeding, civil or criminal," and that counsel "may, under the direction of the

[3] Available at https://nondoc.com/2024/08/09/watch-read-tulsa-mayoral-debate-recap/.

Governor, plead in any cause, matter, or proceeding in which the state is interested or a party . . . ." 74 O.S. § 6. The Governor invokes that authority to provide this Court notice of its obligation to dismiss this case for the failure to join the State of Oklahoma, a necessary and indispensable party, or in the alternative, to intervene in order to advance the State's affirmative defenses, protect the interests of the State that are otherwise unrepresented, and seek immediate dismissal of this improper case.

ARGUMENT AND AUTHORITIES

I. THIS COURT HAS AN INDEPENDENT OBLIGATION TO DISMISS THIS CASE FOR NON-JOINDER OF THE STATE OF OKLAHOMA, A NECESSARY AND INDISPENSABLE PARTY.

As a general rule, "all persons materially interested, either legally or beneficially, in the subject-matter of a suit, are to be made parties to it, so that there may be a complete decree, which shall bind them all." *Minnesota v. N. Sec. Co.*, 184 U.S. 199, 235 (1902). This rule of indispensable parties allows courts "to make a complete decree between the parties, to prevent future litigation, by taking away the necessity of a multiplicity of suits, and to make it perfectly certain that no injustice is done, either to the parties before it, or to others who are interested in the subject-matter . . . ." *Id.* The Federal Rules of Civil Procedure thus provide that an absent, necessary individual "must be joined as a party" when joinder is feasible or the case "should be dismissed." Fed. R. Civ. P. 19(a)(1), (b).[4]

Courts employ a three-part test to determine whether a case must be dismissed for failure to join under Federal Rule 19, asking first whether the absent party is necessary, second whether joinder is feasible, and third whether the absent party is indispensable if joinder is not feasible. *See Citizen Potawatomi Nation v. Norton*, 248 F.3d 993, 997 (10th Cir. 2001), *opinion modified on reh'g, Citizen Potawatomi Nation v. Norton*, 257 F.3d 1158 (10th Cir. 2001); *Davis ex rel. Davis v. United States*, 343 F.3d 1282, 1288 (10th Cir. 2003). To determine whether a non-party is necessary, in relevant part, courts must consider

[4] This rule applies in full force to declaratory judgment actions. *See State Farm Mut. Auto. Ins. Co. v. Mid-Continent Cas. Co.*, 518 F.2d 292, 294 (10th Cir. 1975) ("There are no special provisions detailing parties needed for a just adjudication in declaratory actions; general principles of joinder control.").

whether "that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may . . . impair or impede the person's ability to protect the interest" as a practical matter or "leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations . . . ." Fed. R. Civ. P. 19(a)(1). If the necessary absent party cannot feasibly be joined, courts must then determine whether the absent party is indispensable, in the sense that "equity and good conscience" prevent the action from proceeding in the absence of the party. Fed. R. Civ. P. 19(b).

Importantly, the failure "to join a person required by Rule 19(b)" may be raised at any time, even at the trial, "and a court can raise the matter *sua sponte*." Fed. R. Civ. P. 12(h)(2); *State Farm Mut. Auto. Ins. Co. v. Mid-Continent Cas. Co.*, 518 F.2d 292, 294 (10th Cir. 1975). Indeed, "[t]he issue of indispensability, generally, is not waivable, and is one which courts have an independent duty to raise *sua sponte*." *Symes v. Harris*, 472 F.3d 754, 760 (10th Cir. 2006).

Here, the State of Oklahoma is a necessary party, with a substantial interest in the subject matter and whose interests would be impaired if the case is disposed in the State's absence. The State cannot feasibly be joined because it is shielded by absolute sovereign immunity. Moreover, the State is indispensable in that equity and good conscience prevent this action from proceeding in the State's absence.

A. The State of Oklahoma is a necessary party.

A necessary party is one who claims an interest in the subject of the action and whose ability to protect that interest will be impaired or impeded by disposition in his or her absence. *See* Fed. R. Civ. P. 19(a)(2). The plain language of Federal Rule 19 "does not require the absent party to actually *possess* an interest; it only requires the movant to show that the absent party '*claims an interest* relating to the subject of the action.'" *Davis v. United States*, 192 F.3d 951, 958 (10th Cir. 1999) (citation omitted).

In other words, Rule 19 excludes "only those *claimed* interests that are 'patently frivolous.'" *Id.* (citation omitted).

Here, the State of Oklahoma undoubtedly claims an interest related to the subject of the action. This lawsuit squarely challenges the State and its political subdivisions' sovereign right to exercise criminal jurisdiction within the State's territory. *See* Doc. 2 at ¶¶ 8, 19, 21, 24, 38, 48; p. 11. The State has a direct and substantial interest in protecting its sovereign right to exercise ordinary police powers through prosecution of criminal offenses. As the Supreme Court has long recognized: "No one questions that States possess 'a legitimate interest in the continued enforce[ment] of [their] own statutes.'" *Berger v. N. Carolina State Conference of the NAACP*, 597 U.S. 179, 191 (2022) (citation omitted); *see also State v. Linn*, 1915 OK 1037, ¶ 8, 153 P. 826, 829 (recognizing "the absolute supremacy of the Legislature in many matters of chiefly local interest, in which, nevertheless, the state has a sovereign interest, among which may be mentioned state control over local police protection."); *Younger v. Harris*, 401 U.S. 37, 51–52 (1971) (recognizing "the important and necessary task of enforcing [] laws against socially harmful conduct that the State believes in good faith to be punishable under its laws and the Constitution."). Additionally, the State has a *parens patriae* interest in protecting the well-being and safety of her citizens, including keeping them safe from criminal offenses. *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 607 (1982) ("[A] State has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents in general."). The Governor likewise has an express duty to "cause the laws of the State to be faithfully executed" and to "be a conservator of the peace throughout the State." OKLA. CONST. art. VI, § 8.

The absence of the State here will, as a practical matter, impair or impede the State's sovereign interest in enforcing its laws, using its police powers, and protecting its citizens, as well as the Governor's particular interest in upholding the laws of the State. Anything less than an out-right dismissal of this case will either: (1) directly impact and impede the State and its political subdivisions'

ability to exercise its criminal jurisdiction for the protection and safety of Oklahoma citizens through its political or prosecutorial arms, or (2) will be challenged in a collateral lawsuit, rendering this Court's ruling effectively invalid or leading to inconsistent rulings in dueling cases. The State of Oklahoma is a necessary party to this lawsuit, which directly challenges the State's interests.

B. Joinder of the State of Oklahoma is not feasible.

The State's absolute sovereign immunity prevents its joinder as a party here. It is so well-established to be beyond dispute that "the States, vested as they are with general police power, require no specific grant of authority in the Federal Constitution to legislate with respect to matters traditionally within the scope of the police power," including "the authority to provide for the public health, safety, and morals." (citations omitted). *Dodger's Bar & Grill, Inc. v. Johnson Cnty. Bd. of Cnty. Comm'rs*, 32 F.3d 1436, 1441 (10th Cir. 1994); *see also Torres v. Lynch*, 578 U.S. 452, 457–58 (2016) ("State legislatures, exercising their plenary police powers, are not limited to Congress's enumerated powers; and so States have no reason to tie their substantive offenses to those grants of authority."). In other words, "[t]he State has the 'sovereign right to protect the general welfare of the people . . . .'" *City of El Paso v. Simmons*, 379 U.S. 497, 508–09 (1965) (cleaned up). Because sovereignty, not the Constitution, is the source of the states' police power, "states . . . can and do perform many of the vital functions of modern government—punishing street crime, running public schools, and zoning property for development, to name but a few—even though the Constitution's text does not authorize any government to do so." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 535–36 (2012). The Constitution's "federalism secures to citizens the liberties that derive from the diffusion of sovereign power" and "serves as a check on the power of the Federal Government . . . ." *Id.* at 536 (citation omitted).

Likewise, because "each State is a sovereign entity in our federal system[,] . . . '[i]t is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent . . . ."

Seminole Tribe of Florida v. Florida, 517 U.S. 44, 54 (1996). The State's sovereign immunity, enshrined in the Eleventh Amendment, can only be abrogated when Congress "unequivocally expresse[s] its intent to abrogate the immunity" and "act[s] pursuant to a valid exercise of power" or when a party seeks "prospective relief . . . designed to end a continuing violation of federal law." *Id.* at 55 (internal citations and quotations omitted), 73.[5]

Here, the State of Oklahoma, its officials, and its political subdivisions, are all entitled to absolute sovereign immunity. The State of Oklahoma has not consented to this suit, and tribal entities are bound by the Eleventh Amendment to the same degree as individuals. *See Blatchford v. Native Village of Noatak*, 501 U.S. 775, 779–782 (1991); *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 268–69 (1997). This suit challenges the very act of prosecution, which is squarely foreclosed by prosecutorial immunity and is absolute. *Compare* Doc. 2 at ¶ 9 ("Tulsa's prosecution of Indians for conduct occurring within the Creek Reservation constitutes an ongoing violation of federal law") and ¶ 3 ("prosecuting Indians under color of such [criminal] jurisdiction absent the assent of Congress violates federal law"), *with Nielander v. Bd. of Cnty. Comm'rs of Cnty. of Republic, Kan.*, 582 F.3d 1155, 1164 (10th Cir. 2009). As the Tenth Circuit has made clear: "[p]rosecutors are entitled to absolute immunity for their decisions to prosecute, their investigatory or evidence-gathering actions, their evaluation of evidence, their determination of whether probable cause exists, and their determination of what information to show the court." *Nielander*, 582 F.3d at 1164. The Tribe's challenge of prosecutorial authority is squarely foreclosed.

Nor does any exception or abrogation of the State's sovereign and absolute immunity apply here. To start, the Tribe can point to nothing in federal or constitutional law that clearly and

[5] The Supreme Court has emphasized that this *Ex parte Young* exception is "necessary to permit the federal courts to vindicate federal rights and hold state officials responsible to 'the supreme authority of the United States.'" *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 105 (1984) (citation omitted).

unequivocally abrogates the State's immunity here pursuant to a valid exercise of power. The Supreme Court has rejected arguments that congressional grants of jurisdiction "reflect an unmistakably clear intent to abrogate immunity[,]" including in the context of 28 U.S.C. § 1362 (which provides original jurisdiction for civil actions brought by Tribes) and 25 U.S.C. § 2710 (which provides jurisdiction to federal courts for causes of action arising from gaming negotiations with Tribes). *Blatchford*, 501 U.S. at 786; *Seminole Tribe of Fla.*, 517 U.S. at 72. Similarly, neither the Declaratory Judgment Act nor 28 U.S.C. §§ 1331 or 1362 "provides substantive rights or a cause of action for Plaintiffs' claims." *Cheyenne & Arapaho Tribes v. First Bank & Tr. Co.*, 560 Fed. App'x 699, 708 (10th Cir. 2014) (unpublished). The Supreme Court has also confirmed that "the background principle of state sovereign immunity embodied in the Eleventh Amendment is not so ephemeral as to dissipate when the subject of the suit is an area, like the regulation of Indian commerce, that is under the exclusive control of the Federal Government." *Seminole Tribe of Fla.*, 517 U.S. at 72. Instead, it has long held that the fact "the case is one arising under the constitution or laws of the United States" is insufficient to evade the Eleventh Amendment. *Hans v. Louisiana*, 134 U.S. 1, 10 (1890). Thus, invoking the interstate commerce clause or Indian commerce clause is no aid to the circumvention of the State's sovereign immunity.

Additionally, the Supreme Court has clearly directed that the narrow *ex parte Young* exception does not "permit a federal-court action to proceed in every case where prospective declaratory and injunctive relief is sought against an officer, named in his individual capacity . . . ." *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 270 (1997). In *Coeur d' Alene*, the Supreme Court explained that *ex parte Young* applies in two scenarios. First, and most important, "where there is no state forum available to vindicate federal interests, thereby placing upon Article III courts the special obligation to ensure the supremacy of federal statutory and constitutional law." *Id.* As evidenced by the pendency of multiple state court cases involving the same or substantially similar issue, that is not the case here. *See, e.g.,* Doc. 28 at 4–7 & Doc. 9 at 5–6. And on that note, the states "have real and vital interests in preferring

their own forums in suits brought against them, interests that ought not to be disregarded based upon a waiver presumed in law and contrary to fact." *Id.* at 274.

Second, the *ex parte Young* exception can apply "where prospective relief is sought against individual state officers in a federal forum based on a federal right . . . ." *Id.* at 276–77. But the Supreme Court has warned that this reasoning "can lead to expansive application of the *Young* exception." *Id.* at 274. And the Supreme Court has rejected "[a] doctrine based on the inherent inadequacy of state forums[,]" which "would run counter to basic principles of federalism." *Id.* at 275. After all, "[i]t would be error coupled with irony were we to bypass the Eleventh Amendment, which enacts a scheme solicitous of the States, on the sole rationale that state courts are inadequate to enforce and interpret federal rights in every case." *Id.* at 276. This exception is thus narrowly "tailored to conform as precisely as possible to those specific situations in which it is necessary to permit the federal courts to vindicate federal rights." *Id.* at 277 (citations omitted). Determining whether it applies requires "a careful balancing and accommodation of state interests[,]" with an emphasis on whether the suit "implicates special sovereignty interests." *Id.* at 278, 281; *see also Elephant Butte Irr. Dist. of New Mexico v. Dep't of Interior*, 160 F.3d 602, 609 (10th Cir. 1998) ("We must examine whether the relief Plaintiffs seek against the state officials 'implicates special sovereignty interests,' and 'whether that requested relief is the functional equivalent to a form of legal relief against the state that would otherwise be barred by the Eleventh Amendment.'").

Here, the invocation of a federal right is insufficient to place the case within the *Ex parte Young* fiction. Instead, like in *Coeur d'Alene*, this unusual suit challenging the very core of the State's exercise of police power "implicates special sovereignty interests." 521 U.S. at 281. The effect of this lawsuit would burden the State's police power and shift that power away from the State. Just as in *Coeur d' Alene*, this "troubling" case seeks "far-reaching and invasive relief" that effectively would determine that certain lands and criminal offenses "are not even within the [criminal] jurisdiction of the State."

Id. at 282. Put differently, "[t]he requested injunctive relief would bar the State's principal officers from exercising their governmental powers and authority over the disputed lands . . . ." *Id.* And "[t]o pass this off as a judgment causing little or no offense to [Oklahoma's] sovereign authority and its standing in the Union would be to ignore the realities of the relief the Tribe demands." *Id.* It would also undermine the State of Oklahoma's "equal footing" with the original states, a promise made upon Oklahoma's admission into the Union. *See Oklahoma v. Castro-Huerta*, 597 U.S. 629, 654 (2022) ("This Court long ago explained that interpreting a statehood act to divest a State of jurisdiction over Indian country 'wholly situated within [its] geographical boundaries' would undermine 'the very nature of the equality conferred on the State by virtue of its admission into the Union.'" (citation omitted)).

Again, there can be no dispute that the State's (and its political subdivisions') ability to exercise criminal jurisdiction in its territory is a significant and essential component of the State's police power. The ability to prosecute criminal offenses is essential to public safety, the criminal justice system in Oklahoma, and the overall protection of those within the State. Here, just as in *Coeur d' Alene*, "[t]he dignity and status of its statehood allow [Oklahoma] to rely on its Eleventh Amendment immunity and to insist upon responding to these claims in its own courts, which are open to hear and determine the case." 521 U.S. at 287–88.

Even if the Tribe could overcome this initial threshold, it has not and cannot establish the mere prosecution of traffic offenses within the State *violates federal law*—and binding precedent squarely forecloses a contrary conclusion. To the contrary, the Supreme Court has held:

> No citizen or member of the community is immune from prosecution, in good faith, for his alleged criminal acts. The imminence of such a prosecution even though alleged to be unauthorized and hence unlawful is not alone ground for relief in equity which exerts its extraordinary powers only to prevent irreparable injury to the plaintiff who seeks its aid.

Younger v. Harris, 401 U.S. 37, 46 (1971) (citation omitted). If that weren't enough, in *Oklahoma v. Castro-Huerta* 597 U.S. 629, 636 (2022), the Supreme Court specifically held in that "the Constitution allows

a State to exercise jurisdiction in Indian country[,]" and "as a matter of state sovereignty, a State has jurisdiction over all of its territory, including Indian country." *See also* U.S. CONST. amend. X. The Court repeatedly confirmed its unequivocal holding that "a State has jurisdiction to prosecute crimes committed in Indian country unless state jurisdiction is preempted." *Id.* at 655; *see also id.* at 638 ("The Court's precedents establish that Indian country is part of a State's territory and that, unless preempted, States have jurisdiction over crimes committed in Indian country."). So, the mere fact that "federal law may preempt that state jurisdiction in certain circumstances" does not render the exercise of state jurisdiction over non-major crimes *a violation* of federal law. *Id.* at 636.

Instead, the exercise of criminal jurisdiction over non-major crimes is a valid exercise of the State's sovereign police powers.[6] As the Supreme Court highlighted: "the default is that States may exercise criminal jurisdiction within their territory. . . . States do not need a permission slip from Congress to exercise their sovereign authority." *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 653 (2022). The State of Oklahoma (and its political subdivisions), "vested as [it is] with general police power, require[s] no specific grant of authority in the Federal Constitution to legislate with respect to matters traditionally within the scope of the police power," including "the authority to provide for the public health, safety, and morals." *Dodger's Bar & Grill, Inc. v. Johnson Cnty. Bd. of Cnty. Comm'rs*, 32 F.3d 1436, 1441 (10th Cir. 1994) (citation omitted); *see also City of El Paso v. Simmons*, 379 U.S. 497, 508–09 (1965) ("The State has the sovereign right to protect the general welfare of the people" and "wide discretion

[6] That legal conclusion does not change even if at some point a court finds that federal law preempts the State's criminal jurisdiction in a specific circumstance. Again, eventual preemption would not render the State's current presumptive exercise of its police powers a *violation* of federal law. Even in other contexts the Supreme Court has advised that "the exercise by the state of its police power, which would be valid if not superseded by federal action, is superseded only where the repugnance or conflict is so 'direct and positive' that the two acts cannot 'be reconciled or consistently stand together.'" *See e.g., City of El Paso v. Simmons*, 379 U.S. 497, 508–09 (1965) (citation omitted)). The very existence of presumptive concurrent criminal jurisdiction within the State's territory *via Castro-Huerta* establishes the State's exercise of its police powers is not repugnant to federal law.

on the part of the legislature in determining what is and what is not necessary." (cleaned up)). The Tribe invites this Court to commit grave error in concluding otherwise.

Moreover, the Tribe can point to no federal law that can overcome *Castro-Huerta's* presumption of concurrent criminal jurisdiction to prosecute traffic offenses here. Traffic offenses do not fall under the Major Crimes Act, thus *McGirt v. Oklahoma*, 591 U.S. 894 (2020) does not provide the Tribe a harbor for its claims. In *Castro-Huerta*, the Supreme Court explained that another source of federal law—the General Crimes Act—does not preempt the State's criminal jurisdiction, emphasizing that "[u]nder the General Crimes Act, therefore, both the Federal Government and the State have concurrent jurisdiction to prosecute crimes committed in Indian country." *Id.* at 639. And the Supreme Court also foreclosed any preemption argument pursuant to Public Law 280, concluding that "Public Law 280 does not preempt any preexisting or otherwise lawfully assumed jurisdiction that States possess to prosecute crimes in Indian country." *Id.* at 647. The Tribe fails to identify any new provision of federal law to support the supposed preemption of State criminal jurisdiction over traffic offenses here. Each of the arguments raised by the Tribe has been addressed and foreclosed by the Supreme Court in *Castro-Huerta*. As a matter of law, the Tribe cannot establish that the State's (or its political subdivisions') mere prosecution of minor traffic offenses is preempted by federal law, let alone *violates* federal law sufficient to overcome the State's absolute sovereign immunity from suit. Because Oklahoma is entitled to sovereign immunity here, it cannot feasibly be joined as a party.

C. The State of Oklahoma is indispensable.

When a necessary absent party cannot be joined, the lawsuit must be dismissed "[i]f the district court concludes the action cannot proceed 'in equity and good conscience . . . .'" *Davis v. United States*, 192 F.3d 951, 959 (10th Cir. 1999) (citation omitted). Federal Rule 19(b) details four factors the Court should weigh in making its decision: (1) the extent to which a judgment "might prejudice that person or the existing parties[,]" (2) the extent "any prejudice could be lessened or avoided by" "protective

provisions in the judgment[,]" "shaping the relief[,]" or "other measures[,]" (3) the adequacy of a judgment rendered, and (4) the adequacy of a dismissal for nonjoinder. Fed. R. Civ. P. 19(b).

Here, all factors weigh against the Tribe and in favor of dismissal. Allowing this case to continue or be disposed of other than by a dismissal would prejudice the existing parties. Those parties will be deprived of finality and receive an inadequate remedy that will be subject to actual or effective vacatur through a collateral lawsuit at some point in the future. Any findings or conclusions from this Court will be challenged, effectively annulled, or potentially lead to inconsistent and diverging obligations between other courts. That prejudice could not be lessened or avoided by shaping relief within the judgment. On the other hand, dismissal for nonjoinder would not prevent the underlying question from being resolved at some future point through a proper vehicle. For example, a criminal defendant subject to the State or its political subdivision's criminal jurisdiction could raise the same issue. This is the very procedural posture that resulted in the cases the parties rely on: *McGirt v. Oklahoma*, 591 U.S. 894, 898 (2020), *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 633 (2022), and *Hooper v. City of Tulsa*, 71 F.4th 1270, 1272 (10th Cir. 2023). And has resulted in the many state court cases cited by the parties. *See* Doc. 28 at 4–7 & Doc. 9 at 5–6 (citing *Stitt v. City of Tulsa*, No. M-2022-984 (Okla. Crim.), *City of Tulsa v. O'Brien*, No. S-2023-715 (Okla. Crim.), *Long v. State*, No. F-2023-884 (Okla. Crim.)). In fact, those cases are already being litigated in state court, as highlighted by the City of Tulsa. *See id.* Thus, dismissal would benefit all the existing parties, while continuing this suit would prejudice the parties and the State of Oklahoma. Because the State is a necessary and indispensable party but cannot be feasibly joined due to its absolute sovereign immunity, dismissal is the proper remedy.

II. IN THE ALTERNATIVE, THIS COURT SHOULD PERMIT THE GOVERNOR TO INTERVENE.

In the event the Court does not order an out-right dismissal, the Governor is entitled to intervene in this action as a party to advance the State's defenses or otherwise protect the State's interests. Setting aside the many procedural and affirmative defenses to suit, the Governor would be

the proper party to defend the interests of the State pursuant to his constitutional and statutory authority to employ special counsel to represent the interest of the State. *See* 74 O.S. § 6; *Cherokee Nation v. U.S. Dep't of the Interior*, 2025 OK 4, ¶ 29, __ P.3d __ (Jan. 22, 2025) (confirming "the Governor's authority to bring suit in the name of the State . . . based upon constitutional grounds."). And for the many reasons already explained herein, intervention would be appropriate and necessary here.

Importantly, by making this argument, the Governor does not waive any right, defense, or argument—including the State's absolute and sovereign immunity from suit. Instead, upon an order allowing the Governor to intervene, he would immediately advance the State's affirmative defenses through a motion seeking to dismiss this case in its entirety.[7] Thus, the Governor respectfully urges this Court to dismiss this case out-right because of the State's non-joinder, rather than requiring the Governor's intervention as a party to reach the same arguments. This route will afford the most respect and protection to the State's sovereign immunity and affirmative defenses, as well as avoid what would otherwise be an unusual procedural complexity.

The Tenth Circuit "has historically taken a liberal approach to intervention and thus favors the granting of motions to intervene." *Kane Cnty., Utah v. United States*, 928 F.3d 877, 890 (10th Cir. 2019) (citation omitted). That liberal approach is consistent with the motivation behind intervention, that "all persons materially interested in the result of a suit ought to be made parties, so that the court may . . . 'do complete justice.'" *N. L. R. B. v. Plasterers' Local Union No. 79, Operative Plasterers' & Cement Masons' Int'l Ass'n, AFL-CIO*, 404 U.S. 116, 129 n.24 (1971). The inclusion of all proper interested persons promotes certainty, finality, and justice. Along those same lines, "the requirements for intervention may be relaxed in cases raising significant public interests." *Id.* (citation omitted). Here,

[7] In addition to raising its absolute sovereign immunity from suit, the State would re-assert the defenses previously asserted by Tulsa in its motion to dismiss. *See* Doc. 28.

where the Tribe attacks a police power as fundamental as the State's (and its political subdivisions') prosecutorial authority, significant public interests are in play that require the State's participation—should these arguments be allowed to advance. This Court should either allow the Governor's intervention as-of-right under Federal Rule 24(a)(2)[8] or allow the Governor's permissive intervention under Federal Rule 24(b)(1)(B).

A. This Court should allow the Governor's intervention as a matter of right under Federal Rule 24(a)(2).

Under Federal Rule 24(a)(2), a non-party is entitled to intervene if he or she can "establish that (1) the application is timely; (2) it claims an interest relating to the property or transaction which is the subject of the action; (3) the interest may as a practical matter be impaired or impeded; and (4) the interest may not be adequately represented by existing parties." *Kane Cnty., Utah v. United States*, 928 F.3d 877, 890 (10th Cir. 2019); Fed. R. Civ. P. 24(a)(2). All of these factors are met here. Intervention as of right is appropriate.

1. The State of Oklahoma has a material interest in the subject of this suit, which will be impaired or impeded by its continuation.

In determining whether a non-party meets the interest requirement for intervention, the Court applies a "practical judgment" to determine whether that individual has "an interest that could be adversely affected by the litigation." *Kane Cnty.*, 928 F.3d at 891 (citation omitted). But the Tenth Circuit has stressed that "[e]stablishing the potential impairment of such an interest 'presents a

[8] A plausible argument also exists for intervention as-of-right under Federal Rule 24(a)(1), which provides that a court must permit intervention if the non-party "is given an unconditional right to intervene by a federal statute . . . ." Fed. R. Civ. P. 24(a)(1). Here, federal law expressly provides for the State's intervention in a case "wherein the constitutionality of any statute of that State affecting the public interest is drawn in question . . . ." 28 U.S.C. § 2403(b). The Tribe may not *directly* challenge the constitutionality of any particular statute here, but by arguing that the State lacks jurisdiction to enforce any of its criminal laws within its own territory, the Tribe indirectly challenges the constitutionality of all state and municipal laws as applied to certain Oklahoma citizens. Thus, intervention would be proper under Fed. R. Civ. P. 24(a)(1).

minimal burden . . . .'" *Id.* (quoting *WildEarth Guardians v. Nat'l Park Serv.*, 604 F.3d 1192, 1199 (10th Cir. 2010)).

Here, for all the same reasons already articulated in Section I(A), *supra*, the State of Oklahoma satisfies that minimal burden. The State has a direct, substantial, and legally protectable interest in the subject of the action—the validity of the State's exercise of ordinary police powers through prosecution of traffic offenses. Again, it is undisputed "that States possess 'a legitimate interest in the continued enforce[ment] of [their] own statutes,'" that the State has a *parens patriae* interest in protecting the well-being and safety of her citizens, including keeping them safe from criminal offenses, and that the Governor has an express duty to "cause the laws of the State to be faithfully executed" and to "be a conservator of the peace throughout the State." *Berger v. N.C. State Conference of the NAACP*, 597 U.S. 179, 191 (2022) (citation omitted); OKLA. CONST. art. VI, § 8; *see also Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 607 (1982). Both the State's sovereign interest in enforcing its laws, using its police powers, and protecting its citizens, as well as the Governor's particular interest in upholding the laws of the State, would be adversely affected by this litigation continuing or being disposed of via a settlement agreement the State is not party to.

The State's interests here are not diminished by virtue of the City of Tulsa's involvement, because the Complaint challenges Tulsa's exercise of powers that directly flow from the State. *Cf.* Doc. 2 at ¶¶ 8, 19, 21, 24, 38, 48; p. 11. As the Oklahoma Supreme Court explained over one-hundred years ago: "all officers whose duties pertain to the exercise of the police power of the state are in that sense state officers, and under the control of the Legislature, even though they may be officers of a municipality and charged with the enforcement of the local police regulations of such municipality." *State v. Linn*, 1915 OK 1037, ¶ 12, 153 P. 826, 829. In fact, "the state [] has the right to compel an enforcement of its wholesome police regulations in each and every part of the state, and [] officers may not with impunity neglect the duties imposed upon them by law, at their pleasure." *Id.* at ¶ 23.

Thus, the State's interests are implicated when any prosecutor is exercising, or neglecting to exercise, the State's police power, even when he or she does so on behalf of a municipality.

2. The State's interests are not adequately represented.

Like the other elements for intervention, the burden to show inadequate representation of interests "is minimal, and it is enough to show that the representation may be inadequate." *Nat. Res. Def. Council v. U.S. Nuclear Regulatory Comm'n*, 578 F.2d 1341, 1345 (10th Cir. 1978) (cleaned up). It suffices to show "the possibility of divergence of interest[,]" which "need not be great . . . ." *Id.* at 1346. In addition, "this showing 'is easily made' when the representative party is the government . . . ." *Kane Cnty.*, 928 F.3d at 894 (citation omitted).

When it comes to state governments, the Supreme Court recently explained that naming one "official defendant does not necessarily and always capture all relevant state interests." *Berger v. N.C. State Conference of the NAACP*, 597 U.S. 179, 195 (2022). Instead, "where a State chooses to divide its sovereign authority among different officials and authorize their participation in a suit challenging state law, a full consideration of the State's practical interests may require the involvement of different voices with different perspectives." *Id.* The Court warned that "[t]o hold otherwise would risk allowing a private plaintiff to pick its preferred defendants and potentially silence those whom the State deems essential to a fair understanding of its interests." *Id.* Accordingly, the presumption of adequate representation can be easily "rebutted by the fact that the public interest the government is obligated to represent may differ from the would-be intervenor's particular interest." *Utah Ass'n of Ctys. v. Clinton*, 255 F.3d 1246, 1255 (10th Cir. 2001); *see also id.* at 1255-56 ("the government's representation of the public interest generally cannot be assumed to be identical to the individual parochial interest of a particular member of the public merely because both entities occupy the same posture in the litigation.").

Here, more than a mere possibility exists that the interests of the City of Tulsa and the State through the Governor diverge in this lawsuit. The City of Tulsa and the Governor represent different constituencies and have different priorities. For example, as a state-wide elected official, the Governor has a duty to represent the interests of all 4 million citizens of the State, including residents of Tulsa, while City of Tulsa officials represent only the local interests of approximately 400,000 Tulsa residents. *See* U.S. CENSUS BUREAU, Quick Facts: Tulsa city, Oklahoma & Oklahoma.[9] The Governor and the Mayor of Tulsa also belong to different political parties, hold divergent policy positions—particularly regarding their views relative to State-Tribal relations, and are at different tenures of their respective terms of office. *See, e.g.,* Tristan Loveless, NONDOC, *Tulsa: Monroe Nichols tops Karen Keith, Sims wins county post, Bush unseats Fowler* (Nov. 6, 2024);[10] Tres Savage, NONDOC, *Encore: Kevin Stitt reelected governor of Oklahoma* (Nov. 8, 2022).[11] The Mayor of Tulsa has made public statements indicating he is seeking to settle this lawsuit in a manner that will bring about a new, unprecedented era of "co-governance" of Tulsa by the City of Tulsa and the Tribe. *See, e.g.,* Monroe Nichols, MONROE FOR MAYOR, *Co-Govern with Tribal Nations* (last visited Feb. 27, 2025).[12] The State and the Governor, on the other hand, are unwilling to even entertain sacrificing the long-term preservation of the State's sovereignty interests in pursuit of a politically convenient, short-term "settlement" whereby local City officials hand away core State police powers. The very appetite for settlement by Tulsa here exemplifies these diverging interests and shows the critical need for the State's immediate involvement. By entertaining a disposition other than outright dismissal, Tulsa is failing to diligently pursue, preserve, and protect Oklahoma's state-wide interests. *See, e.g., Pyle-Nat'l Co. v. Amos*, 172 F.2d 425, 427 (7th Cir. 1949)

[9] Available at https://www.census.gov/quickfacts/fact/table/tulsacityoklahoma/INC110221 and https://www.census.gov/quickfacts/fact/table/OK/SEX255223.

[10] Available at https://nondoc.com/2024/11/06/tulsa-monroe-nichols-tops-keith-sims-wins-county-commissioner-bush-unseats-fowler/.

[11] Available at https://nondoc.com/2022/11/08/encore-kevin-stitt-reelected-governor-of-oklahoma/.

[12] Available at https://www.monroeformayor.com/priorities/co-govern-with-tribal-nations.

(permitting intervention where plaintiffs "arranged a settlement with the defendants for exactly one-half of the sum contended by the suit to be due"). The City of Tulsa does not adequately represent the State's interests here.

3. The State's request is timely and won't prejudice the parties.

The Tenth Circuit has instructed that "[t]he timeliness of a motion to intervene is assessed 'in light of all the circumstances, including the length of time since the applicant knew of his interest in the case, prejudice to the existing parties, prejudice to the applicant, and the existence of any unusual circumstances.'" *Utah Ass'n of Ctys.*, 255 F.3d at 1250 (quoting *Sanguine, Ltd. v. U.S. Dep't of Interior*, 736 F.2d 1416, 1418 (10th Cir. 1984)). "[D]elay in itself does not make a request for intervention untimely." *Oklahoma ex rel. Edmondson v. Tyson Foods, Inc.*, 619 F.3d 1223, 1235 (10th Cir. 2010).

Here, the State's request to intervene is timely in light of the surrounding circumstances. Although the case was filed in the Fall of 2023, litigation has not progressed past the pleading stage. Motions to dismiss are still pending, no scheduling order has been entered, and no trial date has been set. The Court even noted in its June 14, 2024 minute order that good cause existed to delay entering a scheduling order until after a ruling on the pending motions to dismiss. *See* Doc. 52.

The very fact that unresolved motions to dismiss are still pending is precisely the reason the State sat on the sidelines until now. The State was optimistic that the case would be dismissed without the need for the State to insert itself. On the other hand, this motion comes shortly after the electoral change in leadership in the City of Tulsa and mere months after the parties advised the Court they were entertaining disposition other than dismissal. *See* Doc. 117 (filed December 16, 2024). Almost immediately after the possibility of settlement was raised, the State stepped in. And the previous hesitancy to get involved until necessary should be understandable given the oddity of having to intervene as a defendant, especially with the State's affirmative defenses.

Intervention will not prejudice the parties, nor create any additional burdens outside the ordinary burdens of any multi-party litigation. The parties may decry the State's intervention as an impediment to their swift settlement of this case, but if the State's intervention is likely to delay their planned settlement agreement, this only solidifies how necessary the State's intervention truly is. Again, without the State's involvement, neither party will be actively protecting the State's interests, which are far more antithetical to the posture of the current parties. But perhaps more importantly, the prejudice prong of intervention focuses on "prejudice caused by the movant's delay, not by the mere fact of intervention." *Tyson Foods*, 619 F.3d at 1236. And when that settlement would impact, define, or impede the State's own prosecutorial authority, that inconvenience is more than necessary. In other words, "[w]hatever additional burdens adding the [Governor] to this case may pose, those burdens fall well within the bounds of everyday case management." *Berger v. N.C. State Conference of the NAACP*, 597 U.S. 179, 200 (2022).

Far from burdening the parties, intervention will benefit the parties. If the State is not permitted to intervene here, any decree or judgment entered in this case will be subject to immediate collateral attack by the State. Without the State's participation, the parties will be deprived of certainty, efficiency, and finality in whatever ultimate ruling comes from this case. It will cost the parties more time and money in a different venue to re-litigate the same underlying issue with the necessary and proper parties. Thus, for the same reason the State is a necessary and indispensable party, *see supra* Section I, intervention is proper.

B. Alternatively, this Court should allow the Governor's permissive intervention under Federal Rule 24(b)(1)(B).

If the Court does not grant the State's intervention as of right, it should allow for permissive intervention in the alternative. Permissive intervention is appropriate if the non-party shows the application is timely and it "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). For the same reasons already explained, this motion is

timely, and intervention will not prejudice the parties. More importantly, a common question of law or fact exists between the claims and defenses asserted by the State here and the main cause of action.

This lawsuit challenges the State or its subdivision's sovereign right to exercise criminal jurisdiction within its territory. That is the very claim the State seeks to defeat through this Motion or its intervention. Permissive intervention is appropriate, in the alternative to out-right dismissal or intervention as of right.

CONCLUSION

For these many reasons, the Governor respectfully asks the Court to dismiss this case for non-joinder of the State—a necessary and indispensable party who cannot feasibly be joined because of her absolute, sovereign immunity. In the alternative, this Court should allow the Governor to intervene as a party to advance the State's defenses or otherwise protect the State's interests.

Respectfully submitted,

/s/ Audrey A. Weaver
BENJAMIN M. LEPAK, OBA No. 30886
General Counsel
AUDREY A. WEAVER, OBA No. 33258
Deputy General Counsel
REMINGTON D. DEAN, OBA No. 35581
Deputy General Counsel
OFFICE OF GOVERNOR J. KEVIN STITT
2300 N. Lincoln Blvd., Suite 212
Oklahoma City, OK 73105
Phone: (405) 521-2342
Benjamin.lepak@gov.ok.gov
Audrey.weaver@gov.ok.gov
Remington.dean@gov.ok.gov
Counsel for J. Kevin Stitt, Governor of Oklahoma

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of March, 2025, I electronically transmitted the foregoing document to the Clerk of this Court using the ECF System for filing and transmittal and a Notice of Electronic Filing to counsel of record who are ECF registrants.

Respectfully submitted,

/s/ Audrey A. Weaver
Audrey Weaver, OBA # 33258