

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

DISTRICT COURT  
**FILED**

JUN - 5 2013

AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL EMPLOYEES  
LOCAL 1180

Plaintiff,

vs.

CITY OF TULSA, OKLAHOMA,

Defendant.

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

Case No. **CV-2013-00690**

Judge LINDA G. MORRISSEY

**PETITION FOR DECLARATORY JUDGMENT**

COME NOW the Plaintiff, The American Federation of State, County, and Municipal Employees Local 1180 ("AFSCME"), by and through its attorneys of record of the law firm of Gibbs Armstrong Borochoff Mullican & Hart, P.C., and pursuant to TIT. 12 OKLA. STAT. § 1651 et seq. hereby brings its Petition for Declaratory Judgment against Defendants. In support of its Motion Plaintiff states and alleges the following:

**I. PARTIES**

1. Plaintiff, AFSCME, is a domestic not for profit corporation with its principal office in Tulsa, Tulsa County, State of Oklahoma.
2. Defendant City of Tulsa is a Municipal Corporation licensed to do business in the state of Oklahoma.

**II. JURISDICTION AND VENUE**

3. Jurisdiction is proper in the District Court of Tulsa County pursuant to TIT. 12 OKLA. STAT. § 2004(F), which states that "[a] court of this state may exercise jurisdiction on

any basis consistent with the Constitution of this state and the Constitution of the United States.” Further, this action is between parties, all of whom are residents of Tulsa County.

4. Venue is proper in the District Court of Tulsa County pursuant to TIT. 12 OKLA. STAT. § 1653 inasmuch as venue is established in a declaratory relief action where the defendants reside.

### **III. STATEMENT OF FACTS**

5. On or about February 5, 2013, Plaintiff requested written records from Defendant pursuant to the Oklahoma Open Records Act 51 OKLA STAT. § 24A.1 et seq. See Exhibit “A” attached hereto and made part hereof.

6. To date, Plaintiff has not received the documents requested on February 5, 2013 from Defendant.

7. On or about April 23, 2013, Defendant requested a copy of an audio recording of a telephone call from Defendant pursuant to the Oklahoma Open Records Act 51 OKLA STAT. § 24A.1 et seq. See Exhibit “B” attached hereto and made part hereof.

8. On or about April 26, 2013, Defendant responded to Plaintiff’s request of April 23, 2013, stating that Defendant is not required to produce the requested audio recording in response to an Open Records Request.

9. On or about May 28, 2013, Plaintiff requested time sheets, overtime forms, leave reports, lists of employees, and emails containing certain words from Defendant. See Exhibit “C”, attached hereto and made part hereof.

10. To date, Plaintiff has not received the documents requested on May 28, 2013, from Defendant.

11. As to the remaining records, Defendant has not produced them to date and despite the length of time that has passed since they have been requested has not provided a date certain that they will be produced in a reasonable amount of time.

12. Plaintiff seeks these records to be fully informed about their government, to obtain documents to adequately seek justice, to plan for future contract and benefit negotiations, and to efficiently and intelligently exercise their inherent political power and rights guaranteed by the Constitution.

#### **IV. DECLARATORY RELIEF SOUGHT**

13. Plaintiff references by incorporation all facts and allegations set forth in Paragraphs 1 through 12 as stated herein.

14. A justiciable controversy exists between the parties inasmuch as Plaintiff claims that it is entitled to the requested records.

15. As all avenues of remedy to this matter have been sought to no avail thus far, the issues involved in this controversy are ripe for judicial determination.

16. Because of this controversy, a Declaratory Judgment is both necessary and proper in order to set forth and determine the rights, obligations, and liabilities of the parties.

17. Plaintiff therefore requests that the Court make a determination that Plaintiff is entitled to the requested records pursuant to the Oklahoma Open Records Act.

**WHEREFORE PREMISES CONSIDERED,** Plaintiff prays this Court adjudicate all questions in its favor and enter a declaratory judgment against Defendant making the determinations requested in Paragraph 16 above, award them all their attorney's fees and costs related to this action, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

GIBBS ARMSTRONG BOROCHOFF  
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