

IN THE DISTRICT COURT OF THE CHEROKEE NATION

Robin Carter Mayes,)
Candidate at Large, Pro Se)
)
Petitioner,)
)
v.)
)
Cherokee Nation Election Commission,)
and)
Cherokee Nation Office of the)
Attorney General,)
)
Respondents.)

Case No. CV-17-27

CLERK OF COURT
KANSAS COUNTY
DISTRICT CLERK

2017 JUL 12 AM 9:27

FILED

**SPECIAL LIMITED ENTRY OF APPEARANCE AND
OBJECTION TO PETITIONER’S MOTION FOR LEAVE TO AMEND PETITION**

Respondent, Cherokee Nation Office of the Attorney General (“OAG”), by and through the undersigned counsel, appears specially and for the limited purpose of this filing only, and without waiving any positions or defenses and/or objections, and appears only for the purpose of objecting to Petitioner’s Motion for Leave to Amend Petition (“Motion”). In support of this objection, the OAG shows the Court as follows:

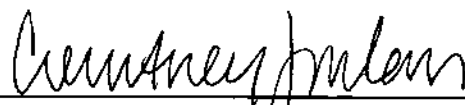
1. The Court must deny Petitioner’s Motion because it will cause undue delay and prejudice to the OAG, as well as be futile. A party may amend its pleading once as a matter of course within a limited period of time after filing. Fed. R. Civ. P. 15(a)(1). Once that period has expired, a pleading may be amended “only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). Such leave, when sought, “shall be freely given when justice so requires.” *Id.* There is, however, no absolute right to amend a pleading. Notwithstanding Rule 15’s liberal amendment policy, a motion to amend may be denied on grounds of undue delay, bad faith or dilatory motive on the part of the

movant, undue prejudice to the opposing party by virtue of allowance of the amendment, and futility of amendment.” *Foman v. Davis*, 371 U.S. 178, 182 (1962).

2. It is clear that, when confronted with the OAG’s Motion to Dismiss and Amended Motion to Dismiss, Petitioner realized he would lose based on the specific claims contained in the Petition. To be sure, Petitioner fails to mention any specific amendments intended to cure the defects in the Petition. Instead, Petitioner makes broad, conclusory statements that do not demonstrate any interest of justice will be served by granting the Motion.
3. Furthermore, it is all but certain that the OAG would have to engage in substantial additional legal research and writing, as well as incur added fees and costs associated with responding to an amended petition. Without a doubt, amending the Petition now, after dispositive motions have been filed, will hinder the OAG’s ability to respond to the proposed amendment. Thus, the OAG will be prejudiced if Petitioner’s Motion is granted.
4. Finally, the Court has already established a scheduling Order for the purpose of a response, reply and hearing on the Petition. To allow Petitioner to amend the Petition would render the current scheduling Order moot. See Order. June 22, 2017.

WHEREFORE, based on the foregoing, the Cherokee Nation Office of the Attorney General respectfully requests this Court deny Petitioner’s Motion for Leave to Amend Petition because it will cause undue delay and prejudice, as well as be futile.

Respectfully submitted,



Courtney Jordan, CNBA #556
Assistant Attorney General

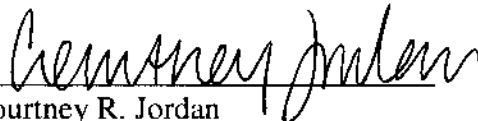
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CERTIFICATE OF MAILING

I hereby certify that on the 12th day of July, 2017, a true and correct copy of the above document was hand delivered, emailed or mailed with proper postage fully prepaid thereon, to the following:

AJ Garcia
504 E. Willis Road
Tahlequah, OK 74464

Cherokee Nation Election Commission
P.O. Box 1188
Tahlequah, OK 74465
hlchaffin@greencountryabstract.com



Courtney R. Jordan