

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ROBERT H. BRAVER, an individual,

Plaintiff,

vs.

AMERIQUEST MORTGAGE COMPANY, a Delaware corporation, INNOVATIVE MARKETING, INC., d/b/a LEAD EXTREME, a Washington corporation, THE LOAN PAGE, INC., a Delaware corporation, STECROFT HOLDINGS, INC., as successor in interest to GO APPLY, INC., d/b/a ELEADZ, a Nevada corporation, JOHN DOES 1-50, MI SOLUTIONS, INC., a California corporation, LEAD ASSOCIATION CORP, a California corporation, THE LEAD SOURCE, INC., a California corporation, COMMISSION JUNCTION, INC., a Delaware corporation, AVALON TRADING COMPANY, LLC, a California corporation, IMPACT WEB ENTERPRISES, INC., a California corporation, LEAD2.NET, INC., a Florida corporation, SUNBURN MARKETING GROUP, LLC, a California limited liability company, MONEYNEST HOLDINGS, INC., a California Corporation, INTERNATIONAL WEBWORKS.COM, LLC, a Colorado limited liability company, NICK HETCHER, an individual, LIBERTY LEAD SOURCE, INC, a Nevada corporation, TIM FAUST, an individual, DOTCOM MARKETING GROUP, INC., a Florida corporation, INETMEDIA, a California corporation, LEADCORP, a California corporation, LEAD TRANSFER, LLC, a Nevada limited liability company, ABACUS ENTERPRISES, INC., a California corporation, TANDAX, INC., a Washington corporation

Defendants.

AMERIQUEST MORTGAGE COMPANY, a Delaware corporation,

Cross-Complainant,

v.

INNOVATIVE MARKETING, INC. d/b/a LEAD EXTREME, a Washington Corporation; VISIUM SOLUTIONS CORPORATION, a Florida corporation; and PROFESSIONAL EQUITY MARKETING, a California Corporation, and ROES I-50, inclusive,

Cross-Defendant.

Case No. CIV-04-1013-W

Honorable Lee. R. West

**DEFENDANT STECROFT HOLDINGS, INC.'S MOTION TO
DISMISS PLAINTIFF'S THIRD AMENDED COMPLAINT**

Defendant Stecroft Holdings, Inc. ("Stecroft") d/b/a Go Apply and/or eLeadZ, by and

through its counsel of record, hereby moves to dismiss Plaintiff's Third Amended Complaint ("TAC"). In support of this Motion to Dismiss, Stecroft states as follows:

I. INTRODUCTION.

After over eighteen months and four attempts, Plaintiff fails to plead a cause of action against Stecroft. Because the TAC characterizes Stecroft's actions as fraudulent, Plaintiff must plead his claims with the particularity required by FED. R. CIV. P. 9(b). Instead, the TAC is filled with conclusory allegations that can be leveled against any company associated with the mortgage industry.

Liability under the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM Act") can only be found if Stecroft originated or procured illegal spam e-mail. Plaintiff admits that Stecroft did not originate spam e-mail, but claims Stecroft procured such e-mail. Yet Plaintiff rests the entirety of his claims on the theory that "it was common knowledge that mortgage financing offers constituted a large proportion of the spam problem." (TAC at ¶ 10.) Such allegations, even if true, are insufficient to establish liability under the CAN-SPAM Act. Certainly, all members of the mortgage industry are not *per se* liable under the anti-spam laws simply because they operate a legitimate business in an industry that has unfortunately become associated with the "spam problem." Instead, a plaintiff must allege that a defendant intentionally, with knowledge, or with conscious disregard, paid another to send spam on that defendant's behalf. The TAC contains no such allegations. If Plaintiff seeks to hold Stecroft liable under a general theory that participants in the mortgage industry receive promotion of their services from spam, Plaintiff is barred because the CAN-SPAM Act explicitly reserves enforcement of such claims to the Federal Trade Commission ("FTC"). 15 U.S.C. §§ 7705(a), (c). Further, Plaintiff cannot maintain his claims under the Oklahoma anti-spam statute because that statute only extends liability to the defendant who actually sends unlawful e-mail.

Perhaps aware of his inability to state a valid cause of action, the TAC improperly bootstraps a conclusory conspiracy cause of action onto its deficient anti-spam claims. But simply reciting conspiracy law and inserting the word "Defendants" or "Ameriquest" where

convenient does not sufficiently allege a conspiracy claim. The TAC provides nothing more than bare legal conclusions that are inadequate to survive a motion to dismiss.

II. BACKGROUND.

Stecroft should be dismissed from this lawsuit because the TAC improperly seeks to hold Stecroft responsible for the actions of others. Plaintiff seeks to creatively and personally profit from the national proliferation of unsolicited electronic mail by indiscriminately targeting numerous defendants for “fraudulent mortgage spam.” (TAC at ¶ 13.) Yet, under both the federal and Oklahoma anti-spam laws, Plaintiff may not hold liable parties who - like Stecroft - did not send or participate in sending the alleged unlawful e-mail.

Stecroft sells “leads” for mortgage loans obtained from a variety of sources. For example, Stecroft operates several websites where individuals seeking mortgage loans can fill out a form and request to be contacted by a mortgage lender. Stecroft then takes the information supplied by the prospective borrower, and sells this “lead” to lenders. To supplement the leads generated on its websites, Stecroft also purchases leads from other companies and re-sells those leads to lenders. Stecroft markets itself as providing “high value” leads that are more likely to result in a completed mortgage application.

It is in Stecroft’s best interests not to use or participate in others’ use of unlawful e-mail advertising techniques to generate leads because doing so undermines the reputation of the service they sell. No one likes to receive spam, and few recipients of a spam e-mail containing a solicitation for a mortgage loan have any genuine interest in borrowing. Spam recipients frequently respond with “junk” or dummy responses. Thus, leads generated by spam have little or no value. To protect its business, Stecroft requires companies they purchase leads from for re-sale to enter into agreements that require them to comply with federal and state anti-spam laws.

III. LEGAL STANDARDS.

A complaint should be dismissed pursuant to FED. R. CIV. P. 12(b)(6) where it is clear plaintiff can prove no set of facts that would entitle him to relief. *Dubbs v. Head Start, Inc.*, 336 F.3d 1194, 1201 (10th Cir. 2003); *Rocky Mountain Helicopters, Inc. v. Bell Helicopter Textron*,

Inc., 24 F.3d 125, 128 (10th Cir. 1994). Although the Court must take all well-pleaded facts in a complaint as true and construe them in the light most favorable to the plaintiff, the Court is not required to accept conclusory allegations, unwarranted deductions of fact or unreasonable inferences. *Hall v. Bellmon*, 935 F.2d 1106, 1109-10 (10th Cir. 1991); *Mitchell v. King*, 537 F.2d 385, 386 (10th Cir. 1976). Nor should the Court supply additional facts or construct a legal theory for plaintiff that assumes facts that have not been pleaded. *Dunn v. White*, 880 F.2d 1188, 1197 (10th Cir. 1989). Bare legal conclusions “without supporting factual averments are insufficient to state a claim on which relief can be based.” *Hall*, 935 F.2d at 1110.

Further, when a complaint “is grounded in fraud,” it should be dismissed if “its allegations fail to satisfy the heightened pleading requirements of Rule 9(b).” *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1107 (9th Cir. 2003); *see also Koch v. Koch Indus., Inc.*, 203 F.3d 1202, 1236-37 (10th Cir. 2000). FED. R. CIV. P. 9(b) provides, “[i]n all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity.” The Tenth Circuit interprets Rule 9(b) to require a complaint to “set forth the time, place and contents of the false representation, the identity of the party making the false statements and the consequences thereof.” *Koch*, 203 F.3d at 1236; quoting *Lawrence Nat’l Bank v. Edmonds (In re Edmonds)*, 924 F.2d 176, 180 (10th Cir. 1991). This demands that a plaintiff alleging claims grounded in fraudulent conduct particularly allege the who, what, when and where of the alleged fraud. *See, e.g., Koch*, 203 F.3d at 1236-37; *Farlow v. Peat, Marwick, Mitchell & Co.*, 956 F.2d 982, 989-90 (10th Cir. 1992).

IV. ARGUMENT.

A. Plaintiff Must Plead His Claims With Particularity.

Because Plaintiff alleges Stecroft engaged in “fraudulent” conduct, the TAC must be plead with particularity. The heightened pleading standard of FED. R. CIV. P. 9(b) applies to allegations premised upon fraudulent conduct. FED. R. CIV. P. 9(b) expressly provides that its heightened pleading standard extends to “the circumstances constituting fraud.” Such

“circumstances” include any claim that is fraud-based or “sounds in fraud.” *Medimmune, Inc. v. Genentech, Inc.*, 427 F.3d 958, 967 (Fed. Cir. 2005) (all claims grounded in fraud or that sound in fraud subject to Rule 9(b)); *also Vess*, 317 F.3d at 1103-04. Although a complaint may not contain a cause of action for fraud, if it is based on allegations of fraudulent conduct, that “claim is said to be ‘grounded in fraud’ or to ‘sound in fraud,’ and the pleading of that claim as a whole must satisfy the particularity requirement of Rule 9(b).” *Vess*, 317 F.3d at 1103-04; *see also Brooks v. Bank of Boulder*, 891 F. Supp. 1469, 1480 (D. Colo. 1995) (any claim that “sounds in fraud ... must comply with Rule 9(b)’s requirement of particularity”).

Although it is unsettled whether Rule 9(b) applies to all allegations of violations of the CAN-SPAM Act or Oklahoma’s anti-spam statute, most circuits - including the 10th Circuit - have not hesitated to apply Rule 9(b)’s strict standard to fraud claims under federal statutory law. *See U.S. ex rel. Semtner v. Med. Consultants, Inc.*, 170 F.R.D. 490, 497-98 (W.D. Okla. 1997); *see also U.S. ex rel. Bledsoe v. Comm. Health Sys., Inc.*, 342 F.3d 634, 641-42 (6th Cir. 2003) (“[W]hen pleading violations of the [federal False Claims Act], a fraud statute, one necessarily makes averments of fraud and necessarily must state with particularity the circumstances constituting the fraud.”) Such is the case here, as Congress adopted the CAN-SPAM Act recognizing that most unsolicited commercial e-mail is “fraudulent or deceptive” in some respect. 15 U.S.C. § 7701(a)(2). Indeed, the section of the Oklahoma Consumer Protection Act that regulates spam is entitled: “Fraudulent electronic mail.” OKLA. STAT. tit. 15, § 776.1.

But the Court need not determine whether all claims made under the CAN-SPAM Act or Oklahoma’s anti-spam law need to meet the requirements of Rule 9(b) because here, Plaintiff’s allegations are explicitly based in fraud. The TAC repeatedly alleges fraudulent conduct cast in terms of falsifying, misrepresenting, misleading and forging information sent in e-mail messages. (*See* TAC at ¶¶ 6, 7, 9, 11, 13, 21, 22, 27, 70, 71, 72.) No less than ten times Plaintiff alleges fraud by stating that Stecroft: engaged in conduct resulting in “unsolicited fraudulent email;” used “fraudulent techniques;” “sent [e-mail] fraudulently;” engaged in “fraudulent practices;” knew that e-mail leads were “generally fraudulent;” were provided “compensation for fraudulent

mortgage spam;” sent “fraudulent mortgage spam to Plaintiff;” transmitted “fraudulent commercial electronic mail messages;” disseminated “fraudulent unsolicited email messages;” and used “fraudulent techniques to disguise the origin of the emails.” (TAC at ¶¶ 6, 7, 9, 11, 13, 22, 27, 33, 72.) The TAC undeniably sounds in fraud. Accordingly, Plaintiff must plead his allegations with particularity.¹

B. The TAC Does Not Allege a Claim Against Stecroft for Violating the CAN-SPAM Act.

The CAN-SPAM Act regulates those who “*initiate* the transmission ... of ... commercial electronic mail message[s].” 15 U.S.C. § 7704(a)(1) (emphasis added). “Initiate” is defined as “to *originate or transmit*” a commercial e-mail message or “to *procure* the origination or transmission of such message...” 15 U.S.C. § 7702(9) (emphasis added). To “‘procure,’ when used with respect to the initiation of a commercial electronic mail message” is defined by the Act as to “intentionally ... pay or provide other consideration to, or induce, another person to initiate such a message on one’s behalf.” 15 U.S.C. § 7702(12). Accordingly, Stecroft may only be held liable under the CAN-SPAM Act if Stecroft initiated or procured unlawful spam.

1. Stecroft did not “initiate” the transmission of spam.

Stecroft did not initiate any e-mail messages and cannot be held liable under the CAN-SPAM Act on this basis. 15 U.S.C. § 7704(a)(1). In fact, Plaintiff admits that someone, other than Stecroft, transmitted the unlawful commercial e-mail of which the TAC complains. The TAC explicitly alleges that “an *unknown* co-conspirator intentionally transmitted” the unlawful spam e-mails Plaintiff associates with Stecroft. (TAC at ¶¶ 96, 100, 102, 104, 110.) There are no other allegations in the TAC that Stecroft “originate[d] or transmit[ted]” a commercial e-mail message. Therefore, Plaintiff cannot premise liability on this basis. Any potential liability for Stecroft could only be based on procuring the transmission of an unlawful e-mail message.

¹ Even if the Court determines that Plaintiff need not plead his allegations with particularity, the TAC fails to meet the pleading requirements of Fed. R. Civ. P. 8 and Fed. R. Civ. P. 12(b)(6).

2. Stecroft did not “procure” unlawful e-mail.

Plaintiff improperly bases his “procurement” allegations on the claim that “it was common knowledge that the content of mortgage spam is generally fraudulent” and Stecroft’s “business model” is a “free-for-all.” (TAC at ¶¶ 11, 13.) Yet the TAC is devoid of any facts to support an inference that Stecroft induced any one of the unknown “spammers” to “initiate” a fraudulent e-mail “on [its] behalf.” *See* 15 U.S.C. § 7702(9) and (12). The TAC never alleges that Stecroft specifically paid or induced anyone who originally transmitted an unlawful commercial e-mail message. Most importantly, *the TAC does not even allege a specific connection, payment or interaction between Stecroft and the “co-conspirator” who transmitted the unlawful e-mail.* (*See, e.g.*, TAC at ¶¶ 96-97, 100-05, 110-15.) Instead, Plaintiff’s theory of liability against Stecroft hangs on unsupported, conclusory allegations. Plaintiff rests the entirety of his claims against Stecroft on its membership in the mortgage industry and the “common experience” and “common knowledge” of the “fraudulent mortgage spam problem.” (TAC at ¶¶ 9, 10, 13.) But section 7704 of the CAN-SPAM Act requires much more than mere knowledge of conduct by others. 15 U.S.C. §§ 7702(12), 7704. Plaintiff’s conclusory allegations do not sufficiently plead a particularized claim.

Indeed, the TAC only alleges that Stecroft bought leads from other companies or lead brokers and then sold those leads to Ameriquest. (TAC at ¶¶ 96-97, 100-05, 110-15.) The TAC’s allegations allow for a possibly infinite number of companies between (1) the sender of the spam and the person who paid the spammer (both of whom may be held liable under the CAN-SPAM Act), and (2) Stecroft. But Plaintiff seeks to hold responsible every company between Ameriquest and the spammers and ignores the number of degrees removed that Stecroft is from the alleged unlawful conduct of the spammers. In doing so, Plaintiff relies entirely on “general knowledge” of the “spam problem” in the industry. (TAC at ¶¶ 9, 10, 13.) This falls inexcusably short of the particularity required by FED. R. CIV. P. 9(b). Moreover, Plaintiff is barred from seeking to recover on this basis as this theory of liability is reserved exclusively to the enforcement of the FTC. *See* 15 U.S.C. §§ 7705(a), (c).

Plaintiff fails to allege any facts, let alone particularized facts, that, if proven, would establish a claim against Stecroft under the CAN-SPAM Act. To the contrary, the TAC admits that the “spammers,” who do not include Stecroft, violated the CAN-SPAM Act. (See TAC at ¶¶ 26, 29.) Because the TAC does not allege any facts to support an inference that Stecroft initiated or procured any of the allegedly fraudulent e-mail received by Plaintiff, it should be dismissed.

C. Stecroft Is Not Liable Under Oklahoma’s Anti-Spam Law.

Plaintiff also fails to allege violations of Oklahoma’s anti-spam law, OKLA. STAT tit. 15, §§ 776.1–776.7. Oklahoma’s anti-spam law restricts the fraudulent use of e-mail and unsolicited commercial electronic messages. The Oklahoma law is more narrow than the CAN-SPAM Act in that it does not impose liability for “procuring” the transmission of an e-mail message. Liability under OKLA. STAT. tit. 15, § 776.1 requires a defendant to actually participate in the alleged violations, *i.e.*, **actually send** the spam. Specifically, the Oklahoma statute states:

It shall be unlawful for a person *to initiate* an electronic mail message that the sender knows, or has reason to know:

- (1) Misrepresents any information in identifying the point of origin or the transmission path of the electronic mail message;
- (2) Does not contain information identifying the point of origin or the transmission path of the electronic mail message; or
- (3) Contains false, malicious, or misleading information which purposely or negligently injures a person.

OKLA. STAT. tit. 15, § 776.1(A) (emphasis added). “Initiate” is defined as “*the action of the original sender* of an electronic mail message....” OKLA. STAT. tit. 15, § 776.4(3) (emphasis added). Further, section 776.6 makes it unlawful for any person “to transmit a commercial electronic mail message....” OKLA. STAT. tit. 15, § 776.6(A). Finally, the statute states, “[i]t shall be a violation of [the Oklahoma law] for any person that *sends* an unsolicited commercial electronic mail message” to fail to adhere to specific advertising standards. OKLA. STAT. tit. 15, § 776.6(C)(D)(E) (emphasis added). Thus, according to the plain language of the statute, liability under OKLA. STAT. tit. 15, § 776.1 requires that a defendant actually send the spam.

Accepting the allegations in the TAC as true, it is impossible to hold Stecroft liable under the Oklahoma law. As discussed above, Plaintiff seeks to hold Stecroft liable under the CAN-

SPAM Act based on a conclusory “procurement” theory. Consistent with this theory, the TAC admits that Stecroft did not send any unlawful spam. (See TAC at ¶¶ 96, 100, 102, 104, 110 (“an *unknown* co-conspirator intentionally transmitted ... unlawful spam”).) The TAC also admits that Stecroft “*did not originate the spam.*” (TAC at ¶ 26.) The only factual support the TAC offers against Stecroft is that Stecroft allegedly bought or sold leads that may have been generated by spam techniques used by another entity. (TAC at ¶¶ 97, 101, 103, 105, 111, 115.) These allegations, even if true, are insufficient to plead a violation of Oklahoma’s anti-spam statute. Because the TAC lacks any facts to support an inference that Stecroft sent fraudulent e-mail messages, it fails to state a claim for relief under OKLA. STAT. tit. 15, § 776.1–776.7 and must be dismissed.

D. Plaintiff’s Causes of Action Cannot Be Saved By Bootstrapping A Conspiracy Claim to the TAC.

Plaintiff cannot save his ill-plead causes of action by adding a conclusory conspiracy claim. Conspiracy is not an independent cause of action. *Brock v. Thompson*, 948 P.2d 279, 294 (Okla. 1997). Nor is it a vehicle for inventing liability where the legislature has not prescribed it. *See id.* (“civil conspiracy itself does not create liability”). Rather, conspiracy is a legal doctrine that imposes liability on persons who act in concert to accomplish an unlawful objective. *Wright v. Cies*, 648 P.2d 51, 53 n.2 (Okla. Civ. App. 1982). Plaintiff may not create liability where it does not exist by casually alleging a conspiracy because he fails to plead the elements required.

A claim for conspiracy under Oklahoma law requires, “a meeting of the minds on the course of action, coupled with an intent to commit the [unlawful] act...” *Arbuckle Wilderness, Inc. v. KFOR-TV, Inc.*, 149 F.R.D. 209, 212 (W.D. Okla. 1993) (quoting *Shadid v. Monsour*, 746 P.2d 685, 689 (Okla. Civ. App. 1987)). Oklahoma law defines a civil conspiracy as “a combination of two or more persons to accomplish *by concerted action*, some unlawful objective....” *Wright*, 648 P.2d at 53 n.2 (emphasis added). To plead a conspiracy claim, a plaintiff must allege facts sufficient to support an inference of the existence of a “meeting of the minds” or an “agreement” between Stecroft and the spammers. *See Salehpoor v. Shahinpoor*,

358 F.3d 782, 789 (10th Cir. 2004). A complaint alleging conspiracy must also state facts sufficient to allege wrongful conduct in furtherance of the conspiracy and damage resulting from the wrongful conduct. *See Wright*, 648 P.2d at 53 n.2. Thus, to sufficiently allege a conspiracy, a complaint must do more than point to an alleged unlawful act and then also point to several defendants unconnected by the complaint's factual allegations. And because Plaintiff's underlying claims for violations of the anti-spam statutes are grounded in fraud, Plaintiff must also allege the elements of the conspiracy with the particularity required by FED. R. CIV. P. 9(b).²

1. Plaintiff fails to plead an agreement to commit a conspiracy.

The TAC is devoid of any facts, let alone particularized facts, to support an inference that Stecroft participated in either the formation or operation of a conspiracy. The TAC does not offer any facts to support the existence of an agreement or "meeting of the minds" between Stecroft and any of the spammers. Plaintiff merely concludes that all defendants named in the action "are engaged in a conspiracy based upon agreement." (TAC at ¶ 19.) This statement is nothing more than an unsupported legal conclusion that does not adequately allege a conspiracy claim against any particular defendant. If Plaintiff were able to premise a conspiracy on this statement alone, every mortgage company in the country would face liability as a "co-conspirator" for the unlawful conduct of "spammers." Reciting conspiracy law and inserting the word "Defendants" or "Ameriquet" where convenient does not sufficiently allege facts to support a claim of conspiracy. (*See* TAC at ¶ 64.) Nor is it sufficient for Plaintiff to presume that he may excuse his need to allege any evidence of a conspiracy by claiming that Defendants also conspired to cover up the conspiracy. (*See* TAC at ¶¶ 23, 26.) At bottom, the TAC offers nothing to support an inference that Stecroft agreed to, intended to or acted in concert to send unlawful spam. Accordingly, the Court should not allow Plaintiff to save his ill-plead anti-spam allegations by bootstrapping an unsupported conspiracy claim to the TAC.

² Regardless of whether a plaintiff pleads fraud, some courts rightly insist on a higher level of specificity for pleading civil conspiracy than is usually demanded for other pleadings. *See Alfus v. Pyramid Tech. Corp.*, 745 F. Supp. 1511, 1521 (N.D. Cal. 1990). Thus, to survive a motion to dismiss, a complaint alleging civil conspiracy "must allege with sufficient factual particularity that defendants reached some explicit or tacit understanding or agreement." *Id.* at 1521.

V. CONCLUSION.

The TAC improperly attempts to hold Stecroft responsible for the actions of illegal “spammers.” Instead of pleading particularized facts sufficient to show Stecroft acted unlawfully, the TAC claims Stecroft can be held liable because of its membership in the mortgage industry and the supposed “common knowledge” of the “fraudulent mortgage spam problem.” (See TAC at ¶¶ 10, 13.) Yet both the CAN-SPAM Act and Oklahoma’s anti-spam law require more than mere industry association or “knowledge” by Stecroft of unlawful e-mails sent by others. Apparently recognizing this defect, Plaintiff tries to hold Stecroft liable by bootstrapping a conspiracy claim onto his deficient spam claims. But Plaintiff’s conclusory conspiracy allegations fail to allege the requisite elements with particularity. Because Plaintiff does not plead facts sufficient to show Stecroft may be held liable under either the CAN-SPAM Act or OKLA. STAT. tit. 15, § 776.1 – 776.7, and because the Plaintiff fails to adequately allege that Stecroft participated in a civil conspiracy, the entire TAC against Stecroft must be dismissed. Because Plaintiff has not been able to adequately plead a cause of action against Stecroft after four attempts, the TAC against Stecroft should be dismissed with prejudice.

Dated: February 24, 2006

Respectfully submitted,

By: s/ Steven J. Adams

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CERTIFICATE OF SERVICE

This is to certify that on the 24th day of February, 2006, the attached document "DEFENDANT STECROFT HOLDINGS, INC.'S MOTION TO DISMISS PLAINTIFF'S THIRD AMENDED COMPLAINT," was electronically transmitted to the Clerk of the Court for the Western District of Oklahoma via the ECF System for filing. The Clerk of the Court will electronically transmit a Notice of Electronic Filing to the following ECF registered parties:

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