

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

STATE OF OKLAHOMA ex rel.)
Representative ANDY FUGATE,)
in his official capacity as a member of the)
Oklahoma House of Representatives (House)
District 94),)
Plaintiff,)
v.)
KEVIN STITT,)
in his official capacity as Governor)
of the State of Oklahoma,)
Defendant.)

CV - 2025 - 4 1 1
Case No.: CIV-_____

SUMMONS

To the Defendant, Gov. Kevin Stitt
2300 N. Lincoln Blvd. Suite 212
Oklahoma City, OK 73105

You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached Petition in this Court at the above address within twenty (20) days after service of this Summons upon you exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiff. Unless you answer the Petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 21 day of ^{February}~~January~~ 2025.

DISTRICT COURT CLERK

By: _____
Deputy Court Clerk

Attorneys for Plaintiff:
Richard C. Labarthe
LABARTHE LAW
1000 W. Wilshire Blvd., Suite 355
Oklahoma City, Oklahoma 73116
(405) 760-3323; fax: (405) 843-9685

This Summons is being mailed/served on: February ____, 2025

Signature of Person Mailing/Serving Summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

FEB 21 2025

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

RICK WARREN
COURT CLERK

42 _____

STATE OF OKLAHOMA ex rel.)
Representative ANDY FUGATE,)
in his official capacity as a member of the)
Oklahoma House of Representatives)
(House District 94),)

Plaintiff,)

v.)

KEVIN STITT,)
in his official capacity as Governor)
of the State of Oklahoma,)

Defendant.)

Cas. No.: CIV-2025 - 4 1 1

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW Plaintiff, Representative Andy Fugate, in his official capacity as a duly elected member of the Oklahoma House of Representatives for House District 94 and brings this action against Governor Kevin Stitt in his official capacity as Governor of the State of Oklahoma.

I. INTRODUCTION

1. Plaintiff State Representative Andy Fugate brings this action to challenge Executive Order 2024-29, signed by Governor Kevin Stitt on December 18, 2024 (“the EO”). The EO compels all full-time state employees to return to in-office work by February 1, 2025, subject to limited exceptions and reporting requirements to the Office of Management and Enterprise Services (“OMES”).

2. Representative Fugate is a duly elected member of the Oklahoma House of Representatives for House District 94 and is directly impacted by the EO, not only as a state legislator with a constitutional interest in preserving legislative authority, but also because the EO undermines his

effective representation of constituents and legislative oversight duties in matters of state employee management. Moreover, state agency staffers have functioned effectively under remote or hybrid schedules which has greatly benefited Representative Fugate and other legislators. Forcing virtually all state agency staff into a unilateral return without legislative process impedes the ability of legislators like Representative Fugate to conduct legislative business effectively.

3. Representative Fugate seeks a declaratory judgment holding that Executive Order 2024-29 is void, as it violates separation of powers and exceeds the Governor's authority under the Oklahoma Constitution and statutory law. Further, he seeks a temporary and permanent injunction preventing its enforcement.

II. PARTIES

4. Plaintiff Representative Andy Fugate represents House District 94 (Del City) in the Oklahoma House of Representatives. He has served since 2018, focusing on areas such as education, accountability, and transparent governance.

5. Defendant Kevin Stitt is the Governor of the State of Oklahoma, vested with executive authority under Okla. Const. art. VI, §§ 1, 2, and who signed Executive Order 2024-29 on December 18, 2024. He is sued in his official capacity.

III. JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to Okla. Const. art. VII, § 7 and related statutes because this action challenges an executive order alleged to violate the Oklahoma Constitution and exceed statutory authority.

7. Venue is proper in Oklahoma County because the Governor's official acts occur at the State Capitol, the locus of the alleged harm to legislative authority, and the place where compliance with or enforcement of the EO is administered.

IV. FACTUAL BACKGROUND

A. Executive Order 2024-29

8. On December 18, 2024, Governor Stitt issued Executive Order 2024-29, declaring that “all full-time state employees” must return to an in-person work environment by February 1, 2025, with only narrow exceptions:

(a) Non-standard work hours: *e.g.*, evenings, weekends, or holidays.

(b) No reasonable in-office employment: if an employee’s position is impossible to perform on-site.

(c) Insufficient office space: if the agency cannot accommodate returning employees without incurring additional expenditures.

9. The EO directive reverses the remote and hybrid work arrangements many agencies adopted during and after the COVID-19 pandemic. Governor Stitt cited the end of pandemic-related emergency conditions and a need for “full accountability” and “efficient government.”

10. Governor Stitt’s order follows a broader push against telework by some federal advisors, Elon Musk and Vivek Ramaswamy, who argue that in-person work cuts government costs.

11. The EO imposes further reporting obligations on agencies granting exceptions, requiring them to submit detailed information – such as employee job descriptions – to the OMES and file quarterly reports beginning March 31, 2025.

12. According to OMES budget documents for fiscal year 2024, nearly 30% of OMES’s own employees worked fully remote, and 60% were on a hybrid schedule. With the new order, these arrangements face curtailment.

13. The Department of Human Services (with more than 6,200 employees) had nearly half (44%) of its workforce teleworking in fiscal year 2024. This practice arose partly from early pandemic office closures and embedded social services placements across the state.

14. The Oklahoma State Regents for Higher Education, as a state agency, indicated they would comply with the executive order. However, individual colleges and universities under their oversight would determine next steps via their own governing boards.

15. As agencies are preparing to transition employees back to the office, the cost implications – such as potentially needing additional office space – remain open questions.

16. Lawmakers, including Senate Republican Adam Pugh, Senate Democratic Leader Julia Kirt and House Democratic Leader Cyndi Munson, have expressed serious concerns about the effects of the EO. These include Senator Pugh’s observation that “[y]ou’re going to have to continue to ask for more money to pay more to be in an office instead of giving them flexibility to be able to work from home” and that eliminating telework options is bound to reduce employee recruitment and retention. Legislators cited potential cost savings agencies gained by reducing office space during the pandemic, as well as the benefit telework provides for employees in rural areas or those facing transportation challenges.

B. Conflict with the Legislature’s Exclusive Lawmaking Power

17. The Oklahoma Constitution divides government power among three branches. Okla. Const. art. IV, § 1: “The powers of the government of the State of Oklahoma shall be divided into three separate departments: The Legislative, Executive, and Judicial....”

18. By purporting to dictate new statewide policy for state employment conditions – namely, banning remote or hybrid work unless narrowly excepted – without legislative enactment or appropriation, the Governor effectively creates new law. This conflicts with Okla. Const. art. V, § 30, stating that the Legislature, not the Executive, “shall have the power of enacting all laws.”

19. The Legislature has enacted laws concerning state agency personnel, workplace rules, and appropriations. Nowhere is the Governor granted unilateral authority to override or revise these conditions by executive fiat.

20. Because the Legislature exclusively controls appropriations, the inevitable additional expense for office expansions or facility upgrades – arising from a full return-to-office mandate – requires legislative authorization. Imposing such costs via a gubernatorial executive order bypasses the legislative budgeting process and raises concerns about unfunded mandates and their impact on morale and agency operations.

21. Legislators have standing to protect legislative prerogatives from executive overreach. *State ex rel. York v. Turpen*, 1984 OK 26, ¶ 1, 681 P.2d 763, 765.

22. As a lawmaker, Representative Fugate has “a plain, direct, and adequate interest in maintaining the effectiveness of [his] votes.” *Hendrick v. Walters*, 1993 OK 162, ¶ 6 n.27, 865 P.2d 1232, 1238 (citing *Coleman v. Miller*, 307 U.S. 433, 438 (1939)). The EO intrudes upon legislative authority to determine statewide personnel policy, thus diluting Rep. Fugate’s constitutional role by undermining his legislative authority.

V. CAUSES OF ACTION

A. Declaratory Judgment (12 O.S. §§ 1651 *et seq.*)

23. Plaintiff realleges and incorporates by reference the allegations in all of the paragraphs set forth above.

24. A real and justiciable controversy exists concerning Executive Order 2024-29 (the “EO”). The EO exceeds the Governor’s authority under the Oklahoma Constitution and improperly encroaches upon the Legislature’s exclusive lawmaking power. This controversy arises because:

(a) Article VI, § 1 of the Oklahoma Constitution vests executive authority in the Governor

but does not grant any general power to enact binding rules by executive decree.

(b) Article VI, § 2 declares the Governor to be the “Chief Magistrate” vested with “supreme executive power,” *yet Oklahoma courts have consistently held that such language does*

not include the power to make new law.

(c) In *Russell Petroleum Co. v. Walker*, 19 P.2d 582, 587 (Okla. 1933) our Supreme Court expressly confirmed that “no order, proclamation, or decree of the Governor...has the force of law” because “the lawmaking power ... is vested exclusively elsewhere.”

(d) *AG Opinion No. 77-191* (1978) and *AG Opinion No. 96-31* (1996) further make clear that the Governor cannot legislate by executive order. Instead, the Governor’s authority is limited to enforcing existing law, not creating new policy or mandates without statutory basis.

(e) All of the foregoing authorities are the extant and fully effective expressions of Oklahoma law and none of them have ever been overridden, reversed or modified by any court or legislative action.

25. As further explained in *Haskell v. Houston*, 21 Okl. 782, 79 P. 92 (1908), and *Shaw v. Grumbine*, 137 Okl. 96, 278 P. 311 (1929), public officers have only such authority as is granted by the Constitution or statutes, and a purported exercise of any broader power is invalid.

26. Here this EO effectively purports to create new statewide policy regarding the terms and conditions of state employment (*i.e.*, requiring in-office work), which is a legislative function or otherwise requires statutory authorization.

27. Because the Governor’s powers are confined to those “prescribed by law,” the EO’s broad directive to overhaul remote or hybrid working arrangements across state agencies – absent any express legislative sanction – is simply and unmistakably an *ultra vires* act. Such action violates the separation of powers principle safeguarded by Okla. Const. art. IV, § 1, and Okla. Const. art. V, § 1 (vesting lawmaking exclusively in the Legislature). *State ex rel. York v. Turpen*, 1984 OK at ¶ 7, 681 P.2d at 766.

28. Accordingly, Plaintiff therefore requests that this Court declare Executive Order 2024-29 null, void, and unenforceable because it violates the constitutional separation of powers and

impermissibly infringes on the Legislature’s domain. A declaratory judgment is necessary to resolve this genuine dispute and clarify that the Governor’s issuance of binding employment mandates via executive order exceeds his constitutional authority.

B. Injunctive Relief (12 O.S. §§ 1382 *et seq.*)

29. Plaintiff realleges and incorporates by reference the allegations in all of the paragraphs set forth above.

30. If enforced, Executive Order 2024-29 will cause irreparable harm in at least two ways:

31. Constitutional Harm to the Legislative Branch:

(a) The EO intrudes upon the Legislature’s exclusive power over appropriations, as well as the power to determine state employment policy or at least approve it through duly enacted statutes.

(b) *AG Opinion No. 77-191* (1978) emphasizes that a governor may not exercise power not already vested in him by law, confirming that the legislature alone controls policy-making unless the law specifically delegates authority to the Executive. *Id.* at ¶ 5.

(c) Allowing the EO to stand would dilute the Legislature’s constitutional prerogatives, undermining the separation of powers essential to Oklahoma’s governance.

32. Practical Harm to Representative Fugate’s (and all Legislators’) Ability to Govern.

By unilaterally mandating in-person work, the EO disrupts established legislative and agency operations without legislative sanction or appropriation. This causes immediate and ongoing harm that cannot be redressed through monetary compensation, as it directly impairs legislative functions and representative duties.

33. No adequate remedy at law exists to prevent these injuries, as the core issue is a constitutional breach rather than one involving purely financial harm. Oklahoma jurisprudence holds that “public officers have only such authority” as granted by law. *Shaw v. Grumbine*, 137

Okl. 96, 278 P. 311 (1929). If the Governor's office is allowed to exceed its authority without judicial intervention, the separation of powers violation will remain unaddressed.

34. Plaintiff therefore seeks both temporary and permanent injunctive relief enjoining Governor Stitt, and all those acting at his direction or under his authority, from enforcing or implementing Executive Order 2024-29 in any manner. This Court's intervention is necessary to preserve the *status quo*, protect the Legislature's constitutional role, and prevent ongoing harm that cannot be remedied by damages.

VI. PRAYER FOR RELIEF

As described herein, under *State ex rel. York v. Turpen*, 681 P.2d at 764, presiding officers or legislators may bring suit to "vindicate the legislature's exercise of its power." The EO supplants the legislative prerogative regarding state-employee policy, granting the Governor new rulemaking power not conferred by statute.

WHEREFORE, Plaintiff Representative Andy Fugate respectfully requests:

1. That this Court assume jurisdiction over this matter and declare the Governor's issuance of Executive Order 2024-29 as exceeding his constitutional or statutory authority;
2. A Declaratory Judgment that Executive Order 2024-29 is void and without legal effect;
3. A Temporary and, upon final hearing, a Permanent Injunction enjoining Governor Stitt, his agents, and any other person acting on his behalf from enforcing or implementing Executive Order 2024-29 in any manner; and
4. An award of costs, reasonable attorneys' fees, and other just, equitable relief this Court deems necessary.

Respectfully submitted,



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Attorney for Plaintiff

VERIFICATION

STATE OF OKLAHOMA
COUNTY OF OKLAHOMA

I, Representative Andy Fugate, being duly sworn, state that I have read the foregoing Petition, know the contents thereof, and the statements therein are true and correct to the best of my knowledge and belief.

Andy Fugate
Representative Andy Fugate

Subscribed and sworn to before me this 20th day of February, 2025.

[Signature]

Notary Public
My Commission Expires: 5/23/2028
My Commission No.: 24006773

