

# ORIGINAL



## IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

JUN 26 2025

JOHN D. HADDEN  
CLERK

JOE E. WHITE, JR. and JASON )  
WADDELL, )  
Petitioners, )  
)  
)  
v. )  
)  
)  
KEVIN STITT, GOVERNOR OF )  
OKLAHOMA; LONNIE PAXTON, )  
PRESIDENT PRO TEMPORE OF THE )  
OKLAHOMA SENATE; AND KYLE )  
HILBERT, SPEAKER OF THE )  
OKLAHOMA HOUSE OF REPRESENTATIVES, )  
Respondents. )

# #123222



### APPLICATION TO ASSUME ORIGINAL JURISDICTION, PETITION FOR DECLARATORY RELIEF, AND REQUEST FOR EXTRAORDINARY RELIEF, INCLUDING A MOTION TO STAY

This Application and Petition is filed in accordance with Okla. Const.

Art. 7, § 4 and Oklahoma Supreme Court Rules 1.191 and 1.301, Forms No. 13 and 14.

The Supreme Court of Oklahoma has authority to grant all requests made by the  
Petitioners herein. Okla. Const. Art. 7, § 4 provides in pertinent part:

*The original jurisdiction of the Supreme Court shall extend to a general  
superintending control over all inferior courts and all Agencies, Commissions and  
Boards created by law.*

#### **I. Remedies Requested**

- The Petitioners request the Supreme Court assume original jurisdiction.

- The Petitioners request the Supreme Court grant a temporary injunction, until this matter is fully heard, to enjoin the Governor of Oklahoma from appointing judges of the business court created by Senate Bill (SB) 632, which is the subject matter of this action. The final version of the bill approved by the Governor has not appeared on the website of the Secretary of State as of this writing. A copy of the Enrolled version of the bill is attached as an Appendix to the Brief in Support of this Application.
- The Petitioners request the Supreme Court, in the alternative, to stay the effectiveness of SB 632. When the constitutionality of a legislative enactment is credibly challenged in an original proceeding, this court has the authority to stay the effectiveness of that law while considering the legal challenge. *Draper v. State*, 1980 OK 117, 621 P.2d 1142, 1145; *Hunsucker v. Fallin*, 2017 OK 100, 408 P.3d 599, 612.

In considering whether to grant a stay or preliminary injunctive relief, the Court generally weighs four factors: 1) the likelihood of success on the merits; 2) irreparable harm to the party seeking the relief if the injunction is denied; 3) their threatened injury outweighs the injury the opposing party will suffer under the injunction; and 4) the injunction is in the public interest. *Edwards v. Bd. of Cty. Comm'rs of Canadian County*, 2015 OK 58, 12, 378 P.3d 54. All these factors support the position of Petitioners herein.

- The Petitioners request the Supreme Court declare SB 632 unconstitutional for the reasons stated hereafter and permanently enjoin its enforcement.

## II. Reasons for Seeking Original Jurisdiction

Issues presented in this Application and Petition involve the public interests which **urgently** require the attention of the Supreme Court. *Independent School District No. 12 v. State*, 2024 OK 39, 565P.3d 23; *Rocket Properties, LLC v. LaFortune*, 2022 OK 5, ¶1, 502 P.3d 1112, 1113; *Oklahoma State Chiropractic Indep. Physicians Ass'n v. Fallin*, 2011 OK 102, 290 P.3d 1; *Fent v. Contingency Review Bd.*, 2007 OK 27, ¶ 11, 163 P.3d 512, 521.

The issue is *publici juris*, affecting the people at large. Petitioners allege that the jurisdiction of the business court created by SB 632 affects all 77 counties of the state, mandating a long list of legal actions involving thousands of civil cases that could either be filed or removed to the business court.

There is an urgency and need for judicial determination. The effective date of SB 632 is September 1, 2025, less than three months hereafter. It can be assumed that the Speaker of the House will soon submit three names to the Governor for the appointment of two judges of the business court. The Chief Justice will be called upon to lease space for business courts in Oklahoma and Tulsa counties and oversee the hiring of staff members for the business court judges. In addition, it would be unfair to ask any applicant for one of the two judicial positions to give up their law practice or judgeship during the pendency of this action. *Edmondson v. Pearce*, 2004 OK 23, 91 P.3d 605, 613-615.

Original jurisdiction is proper because any postponement of a review of the constitutional challenge presented herein will only confuse the issue. *Sanders v. Followell*, 1977 OK 143, 567 P.2d, 84, 86.

It is a matter of judicial economy that the Supreme Court accept original jurisdiction and consider the extraordinary and supervisory relief to prevent the creation of judicial positions

which Petitioners allege are created contrary to the Constitution of Oklahoma. An ordinary and usual remedy is not available to obtain judicial determination before this law takes effect.

*Scruggs v. Edwards*, 2007 OK 6, 154 P.3d 1257; *Treat v. Stitt*, 2021 OK 3, 481 P.3d 240.

### III. The Parties—Standing

The Petitioners are in good standing as attorneys in Oklahoma. Their individual law practices concern the types of cases in which the business court established by SB 632 is given jurisdiction.

Because this action is important to the orderly administration of justice in Oklahoma, traditional standing requirements should be relaxed. In *State ex rel. Howard v. Oklahoma Corp. Comm'n*, 1980 OK 96, 614 P.2d 1069, the Supreme Court turned to a case in New Mexico to justify the acceptance of original jurisdiction:

¶30 *In State ex rel. Sego v. Kirkpatrick*, 86 N.M. 359, 524 P.2d 975, 979 (1974), the New Mexico Supreme Court in an original proceeding was faced with question of the validity of certain partial veto exercised by the Governor of that State. A preliminary inquiry however, concerned the Petitioners' standing to invoke the power of the Supreme Court to resolve the veto question.

¶31 The New Mexico Supreme Court said "[T]his Court in its discretion, may grant standing to private parties to vindicate the public interest in cases presenting issues of great public importance."

¶32 Further on the Court added:  
*Petitioners is a citizen, an elector, a taxpayer, a State Senator, a member of the Senate Finance and Rules Committee, and a member of the Legislative Finance Committee. By failing to predicate our holding as to standing on one or more of these facts, we in no way suggest that one or more thereof would not be sufficient to give Petitioners standing in these proceedings. We simply elect to confer standing on the basis of the importance of the public issues involved.*

In *Hunsucker v. Fallin*, 2017 OK 100, 408 P.3d 599, as modified December 20, 2017, this Honorable Court assumed original jurisdiction when attorneys, on behalf of future clients, were allowed to challenge the constitutionality of a statute.

*¶5 This Court possesses discretion to grant standing to private parties to vindicate the public interest in cases presenting issues of great public importance. This discretion is properly exercised to grant standing where there are "competing policy considerations" and "lively conflict between antagonistic demands."*

*¶7 The adjective-law component to standing in an Oklahoma state court, while creating a barrier in a private-law original jurisdiction action, does not hinder this Court from giving adequate relief in a publici juris original action.*

### **First Cause of Action**

The Petitioners request that SB 632 be declared unconstitutional for several reasons fully explained in the Brief in Support of this Application and Petition. The reasons include: (1) The Legislature has unconstitutionally bypassed the Judicial Nominating Commission for the selection and appointment of judges for the business court and (2) The Legislature has created an unconstitutional barrier to access to the courts with a \$1,565.00 filing fee.

Declaratory relief is the appropriate remedy to "resolve intolerable conflicts" that "amount to a gridlock" between "co-ordinate branches of state government" and is "within the discretionary superintending jurisdiction of this court." *Ethics Comm'n of State of Okla. v. Cullison*, 1993 OK 37, 850 P.2d 1069.

### **Second Cause of Action**

The Petitioners request that the Supreme Court grant a Temporary Injunction to enjoin the Governor of Oklahoma from appointing judges of the business court while this case is being

decided. Okla. Const. Art. 7, § 4, in pertinent part, states, "The appellate jurisdiction of the Supreme Court shall be co-extensive with the State and shall extend to all cases at law and in equity." In the alternative, an Order to Stay is requested to stay the effectiveness of the statute in question.

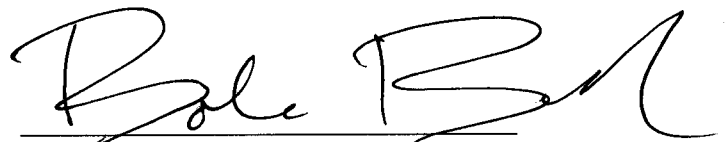
### **Third Cause of Action**

The Petitioners request the Supreme Court grant a Permanent Injunction for the enforcement of any provision of SB 632. The statute signed into law by the Governor does not contain a provision that saves the remainder of the statute should a section or sections be declared unconstitutional or void.

### **Conclusion**

COME NOW the Petitioners and request this Honorable Court to assume original jurisdiction of this matter, enjoin the Governor of Oklahoma from appointing judges of the business court created by SB 632 or issue an Order to Stay effectiveness of the statute, and permanently declare the whole of SB 632 unconstitutional, and for further relief deemed proper and necessary.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bob Burke", written over a horizontal line.

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**Certificate of Mailing**

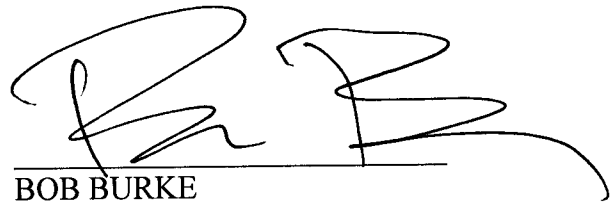
On this 26<sup>TH</sup> day of June, 2025, I hereby certify that I placed a copy of this Application and Petition in the U.S. mail, postage prepaid, to:

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