

FIRM NEWS

Tulsa Race Massacre Survivors Ask Oklahoma Supreme Court to Reverse Dismissal Before They Die

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Lessie Benningfield Randle, Viola Fletcher, and Hughes Van Ellis, Sr. (“Survivors”), the last three known survivors of the 1921 Tulsa Race Massacre, appealed to the Oklahoma Supreme Court requesting that the Court quickly reverse Tulsa County District Judge Caroline Wall’s unlawful dismissal of their lawsuit.

At a press conference at the Oklahoma Supreme Court, the Survivors’ legal team including Schulte Roth & Zabel pro bono attorneys, partner Randall Adams and associate Erika Simonson, discussed why they are confident that the Oklahoma Supreme Court will swiftly reverse Judge Wall’s decision.

“The facts of this case fit squarely within the common law property-based limitations that have shaped Oklahoma’s public nuisance statute for more than a century,” explains Damario Solomon-Simmons, lead attorney for Survivors and founder of Justice for Greenwood. “The District Court unlawfully imposed on Survivors a heightened pleading standard that has never been adopted by a court in Oklahoma. Survivors adequately plead a public nuisance claim pursuant to the definition provided by the Oklahoma Supreme Court in their recent decision in *Johnson & Johnson* on November 11, 2021.”

The District Court’s ruling in this case unlawfully requires a party alleging a public nuisance claim to plead the exact abatement remedy that the party thinks could cure the problem -- before discovery, before trial, and

before any determination of liability. “It’s an impossible pleading standard and it has no basis in Oklahoma’s notice pleading code or decisional law,” said Randall Adams, co-counsel for Survivors and litigation partner at Schulte.

Further, the District Court allowed the defendants to breach an agreement that they made in open court that they would not file new motions to dismiss the Survivors’ unjust enrichment claims. Not only did defendants move for a second time to dismiss the Survivors’ unjust enrichment claims, but also the District Court erroneously granted the meritless motions.

“It is important to recognize that if the Oklahoma Supreme Court allows Judge Wall’s decision to stand, it will become far more difficult for individuals and businesses across the state to vindicate their legal rights,” Mr. Solomon-Simmons said. “While this case carries historic significance for the Greenwood community that has been damaged and exploited for more than 102 years, the significance that the District Court’s holding would have on all Oklahomans seeking justice through the legal system cannot be overstated.”

ABOUT THE TULSA RACE MASSACRE

The Tulsa Race Massacre took place in 1921 when a mob of white individuals, deputized and armed by municipal and county officials, killed, looted, and burned down the Greenwood area. The Massacre resulted in the murder of more than 300 Tulsans and the destruction of the prosperous Greenwood neighborhood, often referred to as “Black Wall Street.”

ABOUT GREENWOOD

Greenwood, most revered for “Black Wall Street” was co-founded by Black Creeks — it became one of the most prosperous, organized, and successful Black communities in United States history, and a place for Black people to escape the political, economic, and social oppression of southern lawmakers post-civil war.

ABOUT JUSTICE FOR GREENWOOD FOUNDATION

Justice for Greenwood is a grassroots, 501(c)(3) organization with a big vision: to get Respect, Reparations, and Repair for the Greenwood community for the near century of historical omissions and continued

harm caused by the 1921 Massacre, through survivor and descendant support, public education, and advocacy.

ABOUT SCHULTE ROTH & ZABEL

With a firm focus on private capital, Schulte Roth & Zabel LLP (“Schulte”) comprises legal advisers and commercial problem-solvers who combine exceptional experience, industry insight, integrated intelligence and commercial creativity to help clients raise and invest assets and protect and expand their businesses. The firm has a long history as a leader in pro bono legal work and a legacy of contributing to the greater good. Schulte embraces its professional and moral obligations to seek justice through the legal system. The firm directly represents and empowers the most vulnerable and marginalized; brings impact litigation to fuel social change; and supports social entrepreneurs to form the next generation of mission-driven organizations that will advocate for the underserved.

RECOGNIZING OUR ACCOMPLISHED LEGAL TEAM

Damario Solomon-Simmons, Kym Heckenkemper, and Beatriz Mate-Kodjo of Solomon Simmons Law; J. Spencer Bryan and Steven Terrill of BryanTerrill, P.C.; Professor Eric Miller of Loyola Marymount College of Law; Maynard M. Henry, Sr.; Lashandra Peoples-Johnson and Cordal Cephas of Johnson Cephas Law PLLC; and Michael Swartz, Randall Adams, Sara Solfanelli, McKenzie Haynes, Erika Simonson, Ekenedilichukwu (Keni) Ukabiala, Theodore Keyes, Jill Guzzetti, Victoria Harris, and Melanie Collins of Schulte.

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