

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

**DONALD WANATEE, Sr., DELORES
M. TROXELL, LYLE D. WALKER,
LEO DEAN PETERS, and EDLAND
S. WALKER**

Plaintiffs,

Vs.

**SAC & FOX TRIBE OF THE
MISSISSIPPI IN IOWA,**

Defendants.

No. C11-44-EJM

**COMPLAINT AND
JURY DEMAND**

COMES NOW, the Plaintiffs, Donald Wanatee, Sr., Delores M Troxell, Lyle D. Walker, Edland S. Walker, Leo Dean Peters, and for its complaint against the Defendants, Sac and Fox Tribe of the Mississippi in Iowa, respectfully states to the Court as follows:

GENERAL ALLEGATIONS

1. Plaintiffs, Donald Wanatee, Sr., Delores M Troxell, Lyle D. Walker, Leo Dean Peters and Edland S. Walker, are enrolled members of the Sac and Fox Tribe of the Mississippi in Iowa pursuant to their Constitution and Bylaws.
2. Defendant, Sac and Fox Tribe of the Mississippi in Iowa (hereinafter "Sac & Fox") is a federally recognized Indian Tribe.
3. Sac & Fox utilize a Revenue Allocation Plan to disperse per capita gaming revenues to the enrolled members of the tribe.
4. In November of 2004, the Sac & Fox Tribal Council unjustly sanctioned tribal members Donald Wanatee, Sr., Delores M. Troxell, Lyle D. Walker, Leo Dean Peters, and Edland S. Walker.
5. Pursuant to Sac & Fox Tribal Resolution No. 9-2004, the Council ceased delivery of the per capita gaming revenues and allegedly placed in escrow the per capita payments owed to the plaintiffs.
6. On February 1, 2010, the Sac & Fox Tribe voted on Resolution No. 1-2010 to restore per-capita payments to the plaintiffs, effective March 12, 2010.

7. Sac & Fox ceased per capita payments to these tribal members from November 2005 until March 2010 without a Tribal Court judgment or an approval to the change in their Revenue Allocation Plan.
8. Sac & Fox alleges the per capita payments were placed in escrow while the tribal members were sanctioned however there is between \$788,000 and \$779,000 missing. The plaintiffs never received the per capita payments withheld during the sanction.
9. For Sac & Fox to make per capita payments to members, it must develop and have in place a Revenue Allocation Plan (herein after "RAP") pursuant to 25 U.S.C. 2710(b)(3).
10. The RAP must be submitted to an Appropriate Bureau Official (hereinafter "ABO") of the Bureau of Indian Affairs to ensure they comply with Indian Gaming Regulatory Act (hereinafter "IGRA") and 25 C.F.R. §§290.6, 290.12, 290.13.
11. Any revisions or adjustments to the RAP require additional approval by the ABO to ensure the changes comply with §290.12 and the IGRA.
12. If a tribe chooses to make per capita payments to individual members, they must be made to all enrolled members of the tribe. 25 C.F.R. §290.14.
13. Reducing or refusing to pay per capita payments against the original RAP and without seeking approval of changes to the RAP result violations of the IGRA. 25 C.R.F. §290.11.
14. Sac & Fox has violated the Indian Gaming Regulatory Act and jurisdiction is based upon 28 U.S.C. §1331.
15. Sac & Fox waived sovereign immunity on issue of Revenue Allocation Plan by engaging in gambling pursuant to the IGRA §11(b)(3); 25 U.S.C. §2710(b)(3).

COUNT I

FEDERAL LAW NON-COMPLIANCE

COMES NOW, the Plaintiff, Donald Wanatee, Sr., and for cause of action against Sac and Fox Tribe of the Mississippi in Iowa, states as follows:

16. Plaintiff repleads paragraphs 1 through 15 of the General Allegations set forth above.
17. Plaintiff is an enrolled member of the Sac & Fox Tribe.
18. Sac & Fox denied per capita payments from November 2004 until March 2010 in violation of IGRA.

19. These payments were allegedly placed in escrow by Defendant, however, there is no evidence an account exists.

WHEREFORE, Donald Wanatee, Sr., prays for judgment against Defendant Sac and Fox Tribe of the Mississippi in Iowa to recover the per capita payments unjustly withheld.

COUNT II

FEDERAL LAW NON-COMPLIANCE

COMES NOW, the Plaintiff, Delores M. Troxell, and for cause of action against Sac and Fox Tribe of the Mississippi in Iowa, states as follows:

20. Plaintiff repleads paragraphs 1 through 15 of the General Allegations set forth above.

21. Plaintiff is an enrolled member of the Sac & Fox Tribe.

22. Sac & Fox denied per capita payments from November 2004 until March 2010 in violation of IGRA.

23. These payments were allegedly placed in escrow by Defendant, however, there is no evidence an account exists.

WHEREFORE, Delores M. Troxell, prays for judgment against Defendant Sac and Fox Tribe of the Mississippi in Iowa to recover the per capita payments unjustly withheld.

COUNT III

FEDERAL LAW NON-COMPLIANCE

COMES NOW, the Plaintiff, Lyle D. Walker, and for cause of action against Sac and Fox Tribe of the Mississippi in Iowa, states as follows:

24. Plaintiff repleads paragraphs 1 through 15 of the General Allegations set forth above.

25. Plaintiff is an enrolled member of the Sac & Fox Tribe.

26. Sac & Fox denied per capita payments from November 2004 until March 2010 in violation of IGRA.

27. These payments were allegedly placed in escrow by Defendant, however, there is no evidence an account exists.

WHEREFORE, Lyle D. Walker, prays for judgment against Defendant Sac and Fox Tribe of the Mississippi in Iowa to recover the per capita payments unjustly withheld.

COUNT IV

FEDERAL LAW NON-COMPLIANCE

COMES NOW, the Plaintiff, Leo Dean Peters, and for cause of action against Sac and Fox Tribe of the Mississippi in Iowa, states as follows:

28. Plaintiff repleads paragraphs 1 through 15 of the General Allegations set forth above.
29. Plaintiff is an enrolled member of the Sac & Fox Tribe.
30. Sac & Fox denied per capita payments from November 2004 until March 2010 in violation of IGRA.
31. These payments were allegedly placed in escrow by Defendant, however, there is no evidence an account exists.

WHEREFORE, Leo Dean Peters, prays for judgment against Defendant Sac and Fox Tribe of the Mississippi in Iowa to recover the per capita payments unjustly withheld.

COUNT V

FEDERAL LAW NON-COMPLIANCE

COMES NOW, the Plaintiff, Edland S. Walker, and for cause of action against Sac and Fox Tribe of the Mississippi in Iowa, states as follows:

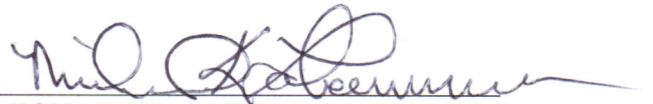
32. Plaintiff repleads paragraphs 1 through 15 of the General Allegations set forth above.
33. Plaintiff is an enrolled member of the Sac & Fox Tribe.
34. Sac & Fox denied per capita payments from November 2004 until March 2010 in violation of IGRA.
35. These payments were allegedly placed in escrow by Defendant, however, there is no evidence an account exists.

WHEREFORE, Edland S. Walker, prays for judgment against Defendant Sac and Fox Tribe of the Mississippi in Iowa to recover the per capita payments unjustly withheld.

Plaintiff hereby demands a jury trial.

A handwritten signature in black ink, appearing to read "Edland S. Walker", is written over a horizontal line.

ROBERT F. WILSON AT0008635

A handwritten signature in dark ink, appearing to read "Michael K. LaHammer", written over a horizontal line.

MICHAEL K. LAHAMMER AT0004425

210 2nd Street SE - Ste. 810

Cedar Rapids, Iowa 52401-1452

Telephone (319) 364-1538

Fax: (319) 364-4442

ATTORNEYS FOR PLAINTIFF