

# **Exhibit 1**



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

MAR 29 1971

*Ch. P. ...*

Dear Mr. Harrington:

With reference to the approval of proposed regulations for the selection of principal tribal officials by members of the Chickasaw, Choctaw, Creek, Seminole and Cherokee Nations pursuant to the Act of October 22, 1970 (84 Stat. 1091), it is not necessary that each of these groups have identical or similar regulations. However, the following three conditions are deemed fundamental to the democratic selection of a principal tribal official, and will be considered to be essential to the approval of any proposed selection regulations:

1. The qualifications of a candidate for the office of the principal chief or governor may require only that the candidate possess blood of the tribe. A requirement that a candidate possess a specific degree blood of the tribe would exceed the standard prescribed by Section 6 of the Act of April 26, 1906 (34 Stat. 137), which provides only that such positions shall be filled by "a citizen by blood of the tribe."
2. The restriction of candidates or of voters to residents within any specific country, counties, state, states, traditional area or traditional areas is deemed unacceptable. There are no residency restrictions placed upon the principal chiefs and governor in the Act of April 26, 1906, supra, and the wording of the Act of October 22, 1970 (84 Stat. 1091), suggests that the greatest possible voter participation is desired.
3. Voter qualifications for the Choctaw, Seminole, Cherokee and Creek people must be broad enough to include the enrolled freedmen citizens of the respective nations, together with the descendants of such enrollees. This is not applicable to the Chickasaw regulations since freedmen were never given the status of national citizens by the Chickasaw Nation. A further

*M*

condition to approval of regulations for either of the Nations is that there should be no specific blood requirement for voter participation on part of the citizens by blood.

Basic to our position on the above matters is the fact that the Act of October 22, 1970 (84 Stat. 1091), did not affect the Act of April 26, 1906 (34 Stat. 137), other than to change the manner of selection of the principal tribal officials. Otherwise the provisions of the 1906 Act, as it has been earlier amended, remain in effect.

Sincerely yours,

Harrison Loesch

Assistant Secretary of Interior

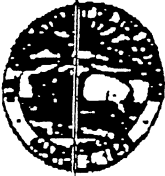
Mr. Virgil N. Harrington  
Area Director, Muskogee Area Office  
Bureau of Indian Affairs  
Federal Building  
Muskogee, Oklahoma 74401

# **Exhibit 2**

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PAGE 02/03

SEP. 30. 2000 6:11AM



## United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

SEP 29 2000

Honorable Jerry Haney  
Chief, Seminole Nation of Oklahoma  
P. O. Box 1498  
Seminole, Oklahoma 74884

Dear Chief Haney:

On August 30, 2000, I wrote you to request that the Seminole Nation of Oklahoma submit nine recently proposed constitutional revisions to the Bureau of Indian Affairs in accordance with Article XIII, section 1 of the Seminole Constitution. While the revisions would effect a number of changes in the Seminole Nation government and territory, the Department is particularly concerned about the revisions that purport to disenfranchise the Freedmen members of the Seminole Nation. (1)

The Freedmen Bands became members of the Seminole Nation of Oklahoma pursuant to Article II of the Treaty of March 21, 1866, 14 Stat. 755, 756:

The Seminole Nation covenant[s] that henceforth in said nation slavery shall not exist, nor involuntary servitude, except for and in punishment of crime, whereof the offending party shall first have been duly convicted in accordance with law, applicable to all members of said nation. And inasmuch as there are among the Seminoles many persons of African descent and blood, who have no interest or property in the soil, and no recognized civil rights, it is stipulated that hereafter these persons and their descendants, and such other of the same race as shall be permitted by said nation to settle there, shall have and enjoy all the rights of native citizens, and the laws of said nation shall be equally binding upon all persons of whatever race or color, who may be adopted as citizens or members of said tribe.

The recently proposed constitutional revisions would, among other things, remove the Freedmen from membership in violation of this Treaty and the Indian Civil Rights Act of 1958, 25 U.S.C. § 1302. The Nation has not submitted the proposed revisions for review and approval as (2)

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SEP. 28. 2000 5:11PM

requested, but, instead, has indicated that it does not intend to submit the proposed revisions.<sup>1</sup> Neither has the Nation offered any justification for its removal of the Freedmen or its failure to submit the revisions for review and approval. Therefore, as stated in the August 30 letter, the revisions and their implementation pursuant to Resolution No. 2000-105, dated August 10, 2000, removing the Freedmen from membership, are deemed disapproved and invalid, and the Department of the Interior declines to afford them any force or effect.

Additionally, be advised that for purposes of carrying out the government-to-government relationship between the United States and the Seminole Nation of Oklahoma, we will not recognize any future resolutions or actions of the General Council without the participation of the Freedmen. The exclusion of the Freedmen from participation in the Nation's government in violation of the treaty rights guaranteed to them in 1866 means that the United States cannot discharge its trust responsibilities to the Seminole Nation through the General Council because that governing body is no longer lawfully constituted.

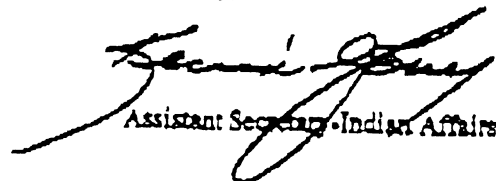
As the United States District Court for the District of Columbia noted nearly 20 years ago in connection with litigation over the removal of the Principal Chief of the Seminole Nation:

The longstanding controversy that has divided the Indian tribes [sic] into competing factions has cast into doubt the representativeness of the General Council and its officers, and has threatened the integrity of the trust funds over which the BIA has ultimate authority and responsibility . . . BIA has a strict and heavy burden to administer funds to be distributed to Indians consistent with the highest fiduciary standards . . . The court finds that the Secretary's decision to withhold tribal assets is consistent with its role as trustee, and with its responsibility under the Indian Self-Determination Act." (Citation omitted.)

*Milam v. U.S. Department of the Interior*, No. 82-3099 (D.D.C. 1982), 10 ILR 3013, 3017.

I regret having to take this action; however, this decision is final for the Department of the Interior.

Sincerely,

  
Assistant Secretary-Indian Affairs

<sup>1</sup> In 1993 the Seminole Nation argued that proposed amendments to the Nation's constitution did not need to be approved by the BIA. The Interior Board of Indian Appeals (IBIA) rejected these arguments. *Seminole Nation of Oklahoma v. Area Director*, 24 IBIA 209, 222 (1993). The removal of the Freedmen from membership changes the composition of the class of voters eligible to participate in the selection of the Principal Chief. Therefore, the amendment which would remove the Freedmen from membership in the Nation requires Secretarial approval under the Act of October 22, 1970, Pub. Law 91-495, 84 Stat. 1091.

# **Exhibit 3**



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

MAR 15 2002

Honorable Chadwick Smith  
Principal Chief, Cherokee Nation  
P. O. Box 948  
Tahlequah, Oklahoma 7446-0948

Dear Chief Smith:

This is in response to your letter of November 7, 2001, requesting my decision on the proposed amendment to the 1975 Cherokee Nation Constitution ("the 1975 Constitution") that, if enacted and approved, would remove the provision requiring the Secretary's approval of constitutional amendments.

Article XV, Section 10, of the 1975 Constitution provides that "[n]o amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative." You have advised that the proposed referendum regarding the amendment that is at issue here would be presented to the Cherokee voters in the following form:

### REFERENDUM ON CONSTITUTIONAL AMENDMENT

Article XV, Section 10 of the Cherokee Nation Constitution, adopted by the Cherokee people on June 26, 1975, states: "No amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative."

SHALL ARTICLE XV, SECTION 10 OF THE CHEROKEE NATION  
CONSTITUTION BE STRICKEN TO ABOLISH THE REQUIREMENT OF  
FEDERAL APPROVAL OF THE AMENDMENTS OR NEW  
CONSTITUTIONS OF THE CHEROKEE NATION?

YES TO REMOVE THE FEDERAL APPROVAL REQUIREMENT

NO TO RETAIN THE FEDERAL APPROVAL REQUIREMENT.

We have no objection to the referendum as proposed and I am prepared to approve the amendment deleting the requirement for Federal approval of future amendments, subject to certain understandings. First, all members of the Cherokee Nation, including the Freedmen descendants who are otherwise qualified, must be provided an equal opportunity to vote in the election. Second, under current law, no amendment of the



Nation's Constitution can eliminate the Freedmen from membership in the Nation absent Congressional authorization. And, lastly, notwithstanding any amendment of the Nation's Constitution, the Act of October 22, 1970 (94 Stat. 1091), until it is repealed or amended, will still require Secretarial approval of the procedures for the election of the leaders of the Cherokee Nation and the other of the Five Civilized Tribes.

If you have any questions, please do not hesitate to call me.

Sincerely,



Assistant Secretary - Indian Affairs

cc: Regional Director, Eastern Oklahoma Region  
Field Solicitor's Office, Tulsa

# **Exhibit 4**

Tribal Operations

MAY 8 2002

Honorable Chadwick Smith  
Principal Chief, Cherokee Nation  
P. O. Box 948  
Tahlequah, Oklahoma 74465

Dear Chief Smith:

The Act of October 22, 1970, 84 Stat. 1091 ("the Act"), provides that the procedures for the election of the Principal Chiefs of the Five Civilized Tribes must be approved by the Secretary; however, in recent elections, these procedures have not been submitted for approval.

The United States District Court for the District of Columbia recently held that the Act remains in full force and effect: Seminole Nation of Oklahoma v. Norton, Case No. 00-CV-02384 (CKK) (D.D.C. Memorandum Opinion Sept. 27, 2001). Based upon the recommendation of the Field Solicitor, we are advising each of the Five Civilized Tribes that their election code, to the extent it sets forth procedures for the election of Principal Chief, must be approved.

If you have any questions regarding this matter, please contact Karen Ketcher, Tribal Operations Officer, at (918) 687-2313.

Respectfully,

Acting

(Sgd.) Dennis C. Springwater

Director

# **Exhibit 5**

## Tribal Operations

AUG 6 2003

Honorable Chadwick Smith  
Principal Chief, Cherokee Nation  
P. O. Box 948  
Tahlequah, Oklahoma 74465-0948

Dear Chief Smith,

This letter further clarifies the Department of the Interior's position with regard to the Cherokee Nation of Oklahoma election for Principal Chief of May 24, 2003.

As previously discussed, there is no express requirement in Federal law that the Department is required to certify the Tribal election results. In this regard, the Department is not certifying the election results of Tribal officials.

The Department has reviewed the correspondence from the Nation's counsel and the counsel for individuals asserting that they are Cherokee Freedman denied the right to vote in the May 24 Tribal election. The Department's role in this area is controlled by the decision of the Tenth Circuit Court of Appeals in *Wheeler v. Department of the Interior*, 811 F.2d 549 (10<sup>th</sup> Cir. 1987). In that case the Circuit Court noted:

[T]he Department takes the position that, when the tribe provides a means for challenging elections, the Department has no authority to overrule the decision of the tribal government as to whether a candidate is legally elected. Plaintiffs admit that no Cherokee law or federal statute requires the Department to act in the present case.

*Id.* at 552.

The Court went on to conclude:

Any election dispute can be resolved by Cherokee tribal forums, without any Department involvement. Once the Cherokee Tribal Election Board certifies an election result, the Department can carry out its statutory obligation to interact with the legal government, and does not need to reexamine the results of the tribal election.

*Id.*

In view of the holding in *Wheeler*, it is inappropriate and premature for the Department to question the validity of the election of Tribal officials.

Based on the Nation's Election Commission certification of the results of the May 24 election, the Department recognizes you as the Principal Chief of the Nation.

The Department continues to have under review the May 24 Tribal election results on the proposed amendment of the Tribal constitution that would remove the requirement that future amendments be approved by the Secretary of the Interior. This review is on-going.

Respectfully,

(s) Jeanette Hanna

Regional Director

cc:

Lloyd B. Miller, Esq.  
Sonosky, Chambers, Sachse, Miller & Munson  
900 West 5<sup>th</sup> Avenue - Suite 700  
Anchorage, Alaska 99501

Jon T. Velie, Esq.  
210 East Main Street  
Suite 222  
Norman, Oklahoma 73069

Acting Assistant Secretary - Indian Affairs  
Main Interior Building  
1849 C Street, N.W.  
Washington, D.C. 20240

Assistant Solicitor  
Division of Indian Affairs, Room 6449  
U. S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

SKEEP-AMARTIN:JHANNA:08-06-03  
file - Cherokee Nation Election 2003  
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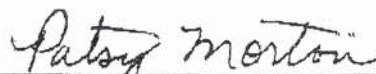
# **Exhibit 6**

## CERTIFICATION

TO: Tribal Council of the Cherokee Nation

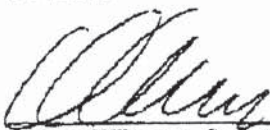
WE, the Election Commission of the Cherokee Nation pursuant to Legislative Act 15-04, hereby certifies that the Ballot Title, that is attached hereto, marked, and incorporated into this Certification as Exhibit "A", complies with Legislative Act 15-04.

Dated this 11th day of January, 2007



Patsy Morton, Chairperson  
Election Commission of the Cherokee Nation

ATTEST:



Andrew Wilcoxon, Secretary/Treasurer  
Election Commission of the Cherokee Nation

01-17-07P04:58 RCVD



Exhibit "A"

**BALLOT TITLE AS REVISED BY THE ATTORNEY GENERAL'S OFFICE ON  
DECEMBER 29, 2006 (EXCLUDES SHOWING OF EDITS)**

This measure amends the Cherokee Nation Constitution section which deals with who can be a citizen of the Cherokee Nation. A vote "yes" for this amendment would mean that citizenship would be limited to those who are original enrollees or descendants of Cherokees by blood, Delawares by blood, or Shawnees by blood as listed on the Final Rolls of the Cherokee Nation, commonly referred to as the Dawes Commission Rolls closed in 1906. This amendment would take away citizenship of current citizens and deny citizenship to future applicants who are solely descendants of those on either the Dawes Commission Intermarried Whites or Freedmen Rolls. A vote "no" would mean that Intermarried Whites and Freedmen original enrollees and their descendants would continue to be eligible for citizenship. Neither a "yes" nor a "no" vote will affect the citizenship rights of those individuals who are original enrollees or descendants of Cherokees by blood, Delawares by blood, or Shawnees by blood as listed on the Final Rolls of the Dawes Commission Rolls closed in 1906.

**SHALL THE MEASURE BE APPROVED?**

**FOR THE MEASURE—YES  
AGAINST THE MEASURE—NO**

# **Exhibit 7**



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



MAY 21 2007

The Honorable Chad Smith  
Principal Chief, Cherokee Nation  
P.O. Box 948  
Tahlequah, Oklahoma 74465-0948

Dear Chief Smith:

The Department of the Interior considered approval of the May 2003 amendment to the 1976 Cherokee constitution that would remove from the constitution the requirement that the Secretary approve all constitutional amendments for them to be effective. After thorough analysis, the Department hereby disapproves the 2003 amendment. The Secretary must, therefore, still approve constitutional amendments before they become effective.

I do not make the decision to disapprove the 2003 amendment lightly. I recognize the Cherokee Nation as a sovereign nation capable of managing its government without oversight of the Federal government. I also recognize that the United States 1866 treaty with the Cherokee Nation was somewhat unusual in its requirement that the Cherokee Nation recognize the rights of individual Freedmen in exchange for amnesty and the continuation of the government-to-government relationship between the United States and the Nation.

I am concerned that approval by the Department of the 2003 amendment at this time would be used by some as a validation or evidence of legitimacy of the Cherokee Nation's removal of its Freedmen members from the tribe in apparent violation of the 1866 treaty. Therefore, I cannot approve the 2003 amendment knowing it may provide the basis for violating the terms and intent of the 1866 treaty.

In its December 16, 2006, decision, the district court in the *Vann* litigation stated that the Department's failure to act on the 2003 amendment was final agency action for purposes of establishing the court's jurisdiction to hear the case. Nothing in the Cherokee Constitution or the Department's regulations imposes a time limit on the Department's responsibility to approve or disapprove amendments to the Constitution. The court's conclusion that the Department's failure to act until now constituted final agency action does not preclude me from making a decision now on whether to approve or disapprove the 2003 amendment.

In closing, I want to assure you that I have the utmost respect for the Cherokee Nation and its powers and right of self-government. As the Federal government works to honor and implement the 1866 treaty, we trust the Cherokee Nation will also honor the treaty that it entered into in the exercise of its powers of self-government.

Sincerely,

Carl J. Artman  
Assistant Secretary - Indian Affairs

# **Exhibit 8**

08/09/2007 14:58 FAX



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240



AUG 09 2007

The Honorable Chadwick Smith  
Principal Chief, Cherokee Nation  
P.O. Box 948  
Tahlequah, Oklahoma 74465-0948

Dear Chief Smith:

On July 10, 2007, the Regional Director, Eastern Oklahoma Office submitted a memorandum to us recommending approval of an amendment to Article XV of the Cherokee Nation Constitution. The proposed amendment strikes Section 10 of Article XV, which requires the Cherokee Nation to submit amendments for review and approval by the Secretary of the Interior. The proposed amendment was presented to the voters at an election held on June 23, 2007, and it was adopted by a vote of 7,946 (66.77%) for and 3,955 (33.23%) against.

The constitutional amendment adopted by the voters of the Cherokee Nation on June 23, 2007, is hereby approved pursuant to the authority granted by the Cherokee Nation Constitution and by the authority delegated to me under 130 DM 3 (April 23, 2003). Nothing in this approval shall be construed as authorizing any action that would be contrary to Federal law.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl J. Artman".

Carl J. Artman  
Assistant Secretary - Indian Affairs

cc: Director, Eastern Oklahoma Region

# **Exhibit 9**

FILED

## IN THE DISTRICT COURT OF THE CHEROKEE NATION

2011 JAN 14 AM 8:51

RAYMOND NASH, et. al.,

Plaintiffs,

vs.

CHEROKEE NATION  
REGISTRAR,

DEFENDANT,

Cases No. CV-07-40, CV-07-41, CV-07-42,

CV-07-43, CV-07-44, CV-07-45,

CV-07-46, CV-07-47, CV-07-48,

CV-07-49, CV-07-50, CV-07-53,

CV-07-56, CV-07-65, CV-07-66,

CV-07-72, CV-07-78, CV-07-85,

CV-07-86, CV-07-99, CV-07-100,

CV-07-112, and CV-07-116

CHEROKEE NATION  
DISTRICT COURT  
JUSTICE MONCOCOEYEA  
COURT CLERKORDER

NOW, on this the 14th day of January, 2011, the above captioned and numbered action comes on for decision after having been taken under advisement to this date.

This matter arises from the above listed individual cases being certified as a class action wherein the Plaintiffs are deemed effected by the passage of an Amendment to the Constitution of the Cherokee Nation by vote of the members of the Cherokee Nation on March 3, 2007 which read as follows, to-wit:

*"Notwithstanding any provisions of the Cherokee Nation Constitution approved on October 2, 1975, and the Cherokee Nation Constitution ratified by the people on July 26, 2003, upon passage of this Amendment, thereafter, citizenship of the Cherokee Nation shall be limited to those originally enrolled on, or descendants of those enrolled on, the Final Rolls of the Cherokee Nation, commonly referred to as the Dawes Rolls, for those listed as Cherokees by blood, Delaware Cherokees pursuant to Article II of the Delaware Agreement dated the 8<sup>th</sup> day of May, 1867, and the Shawnee Cherokees pursuant to Article III of the Shawnee Agreement date the 9<sup>th</sup> day of June, 1869."*

This Constitutional Amendment was the result of the Order of the Supreme Court of the Cherokee Nation in "Allen v. Cherokee Nation," JAT-04-09 (March 7, 2006) wherein the Cherokee Nation was directed to begin processing citizenship applications for those individuals who could

establish descendency from individual listed on the Dawes Rolls as "Freedmen." The individual designated as "Freedmen" were, by and large, individuals of African descent who had been freed from slavery pursuant to Cherokee law, or with the advent of the United States Civil War. On the Dawes Rolls, Freedmen were designated separately from those individuals who were characterized as Cherokee (or Delaware or Shawnee) by blood.

By virtue of the passage of the Amendment, the Cherokee Nation (hereafter "Nation") deems the holding of the Supreme Court abrogated by constitutional amendment which, in most instances, would be the correct belief according to law and the Constitution of the Nation.

It has long been held, and continues to be, that there is no prohibition against Indian Tribes making membership determinations based "on blood" and could be interpreted to allow certain blood quantum requirements. This is the current condition as it relates to the Cherokee Nation and shall continue to be unless it is restrained from such determination by limitation of treaty or statute. Such is the case in this instance.

At the conclusion of the American Civil War and the abolition of slavery, the Cherokee Nation, which had allied, for the most part, with the Confederacy, entered into a treaty with the United States of America on July 19, 1866. Article IX of the treaty addressed the status of freed slaves ("Freedmen") within the Cherokee Nation and provided that Freedmen and their descendants "*shall have all the rights of native Cherokees.*" The Constitution of the Cherokee Nation was amended to provide that Freedmen and their descendants were to be citizens of the Cherokee Nation. Various Courts, including the Cherokee Nation Supreme Court, thereafter affirmed the Freedmen's admission in the same manner as Cherokee citizens of Cherokee blood. As a result of the above actions and rulings, the Freedmen were included on the Dawes Commission Rolls.



From time immemorial, the Cherokee Nation, and in its predecessor forms, has entered into agreements or Treaties and honored and complied with the provisions thereof on its part as part of its law and tradition. Upon the entry of the Europeans to the North American continent the Cherokee Nation abided by such agreements made with the different entities be they French, Spanish, English, or, eventually, the United States. In a number of instances, those nations failed to honor their agreements or treaties resulting in loss and harm to the Cherokee people. One of the most egregious, of course, being the seizing of Cherokee property and the removal of the Cherokee people from their ancestral homes to Indian Territory. This does not mean that the Cherokee Nation should descend into such manner of action and disregard their pledges and agreements.

The Cherokee Nation's entry into the hereinbefore mentioned Treaty of 1866 was an agreement which, to this date, has not been modified or abrogated by any action heretofore taken either through Constitutional change or Amendment thereto and the Nation is still bound by such provisions. The Cherokee Constitutional Amendment of March 3, 2007, by virtue of the provisions of the Treaty of 1866 and subsequent actions taken in furtherance thereof, are hereby determined to be void as a matter of law.

The Class Appellants to whom this Order extends are the original enrollees, or descendants of original enrollees, of the Dawes Commission Rolls designated Cherokee Freedmen, or Cherokee Freedmen-Minor Children and shall have the rights as previously entitled prior to the passage of the aforesaid Constitutional Amendment.

By virtue of the entry of the Temporary Order in this matter, the Appellants have been granted and authorized all privileges as previously granted and, therefore, have no further relief to be granted or awarded herein. The applications for citizenship as previously held in abeyance

herein shall begin to be processed by the Nation within thirty (30) days of date of the filing this Order.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
**JUDGE OF THE DISTRICT COURT**

# **Exhibit 10**

FILED

IN THE CHEROKEE NATION SUPREME COURT

2011 JUL 21 AM 9:09

IN THE MATTER OF THE 2011 ) Case No. SC-2011-06  
GENERAL ELECTION )

CHEROKEE NATION  
SUPREME COURT  
KENDALL BIRD, COURT CLERK

FINAL ORDER

NOW ON THIS 21<sup>st</sup> day of July, 2011, the Court, pursuant to LA-06-10, *et seq.* at closed session, enters the following findings and orders:

This Court has received evidence in the form of sworn testimony from various witnesses, exhibits, and, multiple numeric counts of voting documents, and, has entertained oral arguments from the Petitioner and Intervenor; and,

The Court pursuant to LA-06-10 §102 after consideration of all the evidence FINDS that it is impossible to determine the election result with mathematical certainty or to certify a successful candidate for the Office of Principal Chief of the Cherokee Nation in this election.

IT IS THEREFORE ORDERED by the Court that all certifications of the Cherokee Nation Election Commission concerning the 2011 General Election for the Office of Principal Chief of the Cherokee Nation are vacated and held for naught.

IT IS FURTHER ORDERED by the Court that this election for the Office of Principal Chief of the Cherokee Nation is **invalid**.

IT IS FURTHER ORDERED by the Court that the Clerk of the Cherokee Nation Supreme Court shall immediately serve a copy of this Order on the Cherokee Nation Election Commission chairperson and counsel for all parties.

  
Darell R. Matlock, Jr., Chief Justice

  
Darrell Dowty, Justice

  
James G. Wilcoxon, Justice

  
Kyle B. Haskins, Justice

  
Troy Wayne Poteete, Justice

---

CERTIFICATION OF MAILING

I certify that a true and correct copy of the foregoing document, Order, was mailed and/or transmitted via facsimile on this 21<sup>st</sup> day of July, 2011 to the following:

Lloyd E. Cole, fax # (918) 696-2070  
Cherokee Nation Election, fax # (918) 458-6101  
Charles Hoskin, Jr. and Kalyn Free, fax # (949) 607-2914  
Laurie Phillips, fax # (866) 436-0304  
Dean Luthey, fax # (918) 594-0505  
Casey Ross-Petherick, fax # (405) 735-5417  
Tim K. Baker, fax # (918) 456-1983

  
Kendall Bird, Court Clerk

# **Exhibit 11**

**FILED**

**IN THE SUPREME COURT OF THE CHEROKEE NATION**

**2011 AUG 22 PM 5:00**

**CHEROKEE NATION REGISTRAR,  
Defendant/Appellant,**

**vs.**

**RAYMOND NASH, ET AL.,  
Plaintiffs/Appellees.**

**Case No. SC-2011-02**

**CHEROKEE NATION  
SUPREME COURT  
KENDALL BIRD, COURT CLERK**

**APPEAL FROM THE DISTRICT COURT OF THE CHEROKEE NATION  
TAHLEQUAH, OKLAHOMA**

**DISTRICT COURT CONSOLIDATED CASE NOS.  
CV-07-40, CV-07-41, CV-07-42, CV-07-43 CV-07-44, CV-07-45, CV-07-46,  
CV-07-47, CV-07-48, CV-07-49, CV-07-50, CV-07-53, CV-07-56, CV-07-65,  
CV-07-66, CV-07-72, CV-07-78, CV-07-85, CV-07-86, CV-07-99,  
CV-07-100, CV-07-112 AND CV-07-116**

**HONORABLE JOHN CRIPPS, TRIAL JUDGE**

**REVERSED  
AND  
REMANDED WITH INSTRUCTIONS  
TO DISMISS FOR WANT OF JURISDICTION**

**A. DIANE HAMMONS  
Cherokee Nation Attorney General  
P.O. Box 948  
Tahlequah, Oklahoma 74465  
918-458-5099 Fax: 918-458-6142  
Attorney for Defendant/Appellant**

**RALPH KEEN, JR.  
Attorney at Law  
Keen Law Offices  
205 West Division Street  
Stilwell, Oklahoma 74960  
918-696-3355 Fax: 918-696-3576  
Attorney for Plaintiffs/Appellees**

**Before:**

**Darell R. Matlock, Jr., Chief Justice  
Darrell Dowty, Justice  
James G. Wilcoxon, Justice  
Kyle B. Haskins, Justice  
Troy Wayne Poteete, Justice**



**Majority Opinion Filed By:**  
**Concurring:**

**Chief Justice Darell R. Matlock, Jr.**  
**Justice James G. Wilcoxen**  
**Justice Kyle B. Haskins**  
**Justice Troy Wayne Poteete**  
**Justice Darrell Dowty**

**Dissenting:**

### **Standard of Review**

The Court reviewed “*denovo*” the issues of (1) of the right of the Cherokee people to define tribal citizenship and, (2) the interpretation of the language of the 2007 amendment to the Cherokee Nation Constitution which sets forth the requirements of citizenship in the Cherokee Nation. *Cherokee Nation v O’Leary* SC-2006-13 & 14.

### **OPINION**

#### **ANATOMY OF LITIGATION**

On April 17, 2007, the Cherokee Nation Registrar, pursuant to Article IV of the Cherokee Nation Constitution, filed the timely letters of appeal concerning the removal of the appellees’ names from the rolls of citizens of the Cherokee Nation after the passage of the Constitutional Amendment on March 3, 2007, by the Cherokee people by special election. Those letters represent the appeals lodged with the Cherokee Nation District Court under the numbers set forth herein above. The Petitions allege that the action of the Registrar was, in effect, a retroactive application of the mandates of the Constitutional Amendment dated March 3, 2007; that the March 3, 2007, Constitutional Amendment is, in and of itself, unconstitutional under the Cherokee Nation Constitution; that the Treaty of 1866 was a contract between the United States of America and the Cherokee Nation and the Treaty of 1866 created citizenship for the Cherokee Freedmen in the Cherokee Nation; that the Cherokee people are forever prohibited from amending their Constitution in a manner that excludes the Cherokee



Freedmen's citizenship in the Cherokee Nation; and, that exclusion of the Cherokee Freedmen from citizenship in the Cherokee Nation violates federal law. The appellants identified in the Cherokee Nation District Court's Final Order dated January 14, 2011, shall hereinafter be referred to as "Appellees". The Cherokee Nation Registrar shall hereinafter be referred to as "Appellant".

The Cherokee Nation District Court entered its order transferring "Appellees" cases to the Cherokee Nation Supreme Court under Supreme Court Case No. SC-07-13. The Cherokee Nation Supreme Court after due consideration of all relevant facts and the law pertaining thereto remanded "Appellees" cases to the Cherokee Nation District Court for full adjudication of the cases on April 23, 2007. The Cherokee Nation District Court, after entertaining various pre-trial motions, entered a Scheduling Order on September 18, 2008, and the parties responded by filing Joint Stipulations on November 28, 2008. The parties stipulated that, among other things, "the election of March 3, 2007, was conducted in compliance with Cherokee Nation election laws and procedures". "Appellees" filed their Motion for Partial Summary Judgment, and Brief in Support, in favor of the Cherokee Freedman on December 1, 2008. "Appellant" filed its Motion for Summary Judgment and Brief in Support on December 23, 2008. "Appellees" filed their Supplemental Arguments in Support of the Motion for Summary Judgment on July 31, 2009. The District Court on July 17, 2009, entertained oral arguments by the parties and requested proposed findings of facts and conclusions of law. "Appellees" filed their proposed Finding of Facts and Conclusions of Law on August 31, 2009, and "Appellant" filed its Proposed Finding of Facts and Conclusions of Law on September 3, 2009. The District Court on January 14, 2011, entered its Final

Order determining that, “the Cherokee Nation Constitutional Amendment of March 3, 2007, by virtue of the treaty of 1866 and subsequent actions taken in furtherance thereof, are hereby determined to be void as a matter of law.” “The Class Appellants to whom this Order extends are the original enrollees, or descendants of original enrollees, of the Dawes Commission Rolls designated Cherokee Freemen or Cherokee Freedmen-minor children and shall have the rights as previously entitled prior to the passage of the aforesaid Constitutional Amendment.” From that District Court Order this appeal has been lodged in this Court for review and relief.

### **Appeal Procedural Record**

THE APPEAL TO THIS Court was lodged on January 25, 2011. The parties timely filed their respective pleadings. The Appellant, pursuant to Rule 60 of the Cherokee Nation Supreme Court rules, timely filed a motion for extension of time to file its reply brief which in part was required by the belated service of the Appellees’ Answer Brief. There was no objection to the extension of time granted by this Court as ordered on June 21, 2011. The Appellant filed its reply brief on July 1, 2011, and the appeal became ripe for decision.

### **Court’s Findings**

The Court makes the following findings in conjunction with its *denovo* review of the issues raised by the record and those taken by Judicial Notice:

1. The Amendment approved by the Cherokee People on March 3, 2007, provides:

Notwithstanding any provisions of the Cherokee Nation Constitution approved on October 2, 1975, and the Cherokee Nation Constitution ratified by the



people on July 26, 2003, upon passage of this Amendment, citizens of the Cherokee Nation shall be only those originally enrolled on, or descendants of those enrolled on, the Final Rolls of the Cherokee Nation, commonly referred to as the Dawes Rolls, for those listed as Cherokees by Blood, Delaware Cherokees pursuant to Article II of the Delaware Agreement dated the 8<sup>th</sup> day of May, 1867, and the Shawnee Cherokees pursuant to Article III of the Shawnee Agreement dated the 9<sup>th</sup> day of June, 1869.

2. The election of March 3, 2007, was conducted in compliance with Cherokee Nation election laws and procedures.

3. The proposed amendment was approved by a majority vote of the Cherokee people on March 3, 2007.

4. "Appellant" interpreted the amendment language as applying the new criteria for citizenship to existing, enrolled citizens of the Cherokee Nation.

5. "Appellant" notified "Appellee" Class of its determination of ineligibility for continued membership in March of 2007.

6. "Appellees" Class was removed from the citizenship rolls of the Cherokee Nation, effective March 16, 2007, and was thereafter reinstated pursuant to the Cherokee Nation District Court Temporary Injunction Order dated May 14, 2007.

7. "Appellees" Class during period of disenrollment was denied tribal services and rights as Cherokee citizens, except for a small number of critically ill people who continued to receive health services, paid for by tribal funds.

8. All unprocessed applications for citizenship in “Appellant’s” possession received from “Appellees” Class members are being held, in abeyance, without further processing pending the decision of this Court.

9. There is no subject matter jurisdiction for the Cherokee Nation District Court, or this Court, to determine that the March 3, 2007, Amendment to the Cherokee Nation Constitution is unconstitutional. And, subject matter jurisdiction cannot be waived.

10. There are Cherokee Freedmen, who are also descendants of Cherokees listed on the Dawes Rolls as Cherokees by Blood, who are citizens of the Cherokee Nation and who are entitled to be citizens of the Cherokee Nation.

11. There is no subject matter jurisdiction for the Cherokee Nation District Court, or this Court, to determine that the March 3, 2007, Amendment to the Cherokee Nation is void.

12. The Cherokee Nation District Court’s finding that the Treaty of 1866, between the United States of America and the Cherokee Nation, by its provisions guaranteed citizenship to the Cherokee Freedmen in the Cherokee Nation would, in effect, deprive “Appellees” standing in these proceedings and consequently necessitate that the proper party would be the United States of America.

### Discussion

The Trial Court's Order entered on January 14, 2011. raises an issue of Cherokee Nation Constitutional import and one that does not appear in United States Federal Jurisprudence or State Jurisprudence.

Simply put, do the Cherokee Nation Courts, or does any Court, have the jurisdiction or power to order what the constituents of a sovereign can set forth in their organic documents.

The Cherokee Nation Constitution in Article XV Initiative Referendum and Amendment sets forth in Section 1., "Notwithstanding the provisions of Article VI, the People of the Cherokee Nation reserve to themselves the power to propose laws and amendments to this Constitution...."

The declaration of the Constitutional Amendment, enacted by the Cherokee people on March 3, 2007, as void is not within the District Court's power, as such has not been delegated by the Cherokee Nation Constitution.

The Cherokee Nation Constitution in Article VIII Judicial Section 6 only grants the District Court jurisdiction to resolve disputes under the Constitution.

This Court has previously held in *Allen v Cherokee Nation*, JAT-04-09 (March 7, 2006) that the Cherokee people do have the right to make citizenship determination (whether to exclude Freedman and intermarried white descendants) for themselves.

The latest sovereign expression of the Cherokee people concerning the Freedmen is found in their amendment dated March 3, 2007, to the Cherokee Nation Constitution.



“Appellees” raise the issue as to their citizenship status after the passage of the March 3, 2007, Cherokee Nation Constitution amendment. They urge this Court to find that this amendment is somehow, by its nature, a retroactive instrument. The amendment does not affect their status prior to the passage of the amendment; the amendment only affects their status after. The Court finds no merit in the “Appellees” position.

This Court’s findings are dispositive of these appeals originally lodged with the Cherokee Nation District Court, however, the Court offers the following observations.

The Cherokee Freedmen were never afforded citizenship in the Cherokee Nation by the Treaty of 1866. A fair reading of the Treaty of 1866 indicates that it was an expression by the parties that the Freedmen would be treated as equals to the citizens of the Cherokee Nation under the federal law as it existed at that time. The Freedmen at that time gained citizenship status in the Cherokee Nation by the Cherokee People’s sovereign expression in the 1866 Constitutional Amendment to the 1839 Cherokee Nation Constitution.

It stands to reason that if the Cherokee People had the right to define the Cherokee Nation citizenship in the above mentioned 1866 Constitutional Amendment they would have the sovereign right to change the definition of Cherokee Nation citizenship in their sovereign expression in the March 3, 2007 Constitutional Amendment.

This Court also takes cognizance of federal jurisprudence that Treaties are contracts between or among independent nations and are designed to protect the sovereign interests of nations, and, it is up to the offended nations to determine whether

or not a violation of sovereign interests occurred; And, generally, international treaties are not presumed to create rights that are privately enforceable. *United States v Zabaneh*, 837 F2d 1249 (5<sup>th</sup> Cir. 1988); *Goldstar (Panama) S. v United States*, 967, F2d 965, 988 (4<sup>th</sup> Cir. 1992); *Accord Argentine Republic v Amerada Hess Shipping Corp.*, 488 U.S. 428, 442 (1989) The Federal Courts have also ruled that Courts should interpret treaty provisions narrowly for fear of waiving sovereign rights that the government or people never intended to cede. *Kreimerman v Casa Veerkamp*; S. A. de C.V. 22 F3d 634, (5<sup>th</sup> Cir. 1994)

This Court does not find that the actions of the Cherokee people in defining their citizenship in the March 3, 2007 Constitutional Amendment would be a Badge or Incident of Slavery which violates the Thirteenth Amendment to the United States Constitution in light of the facts that there are Cherokee Freedmen who have and can prove they are also descendants of Cherokees listed on the Dawes Rolls as Cherokees by Blood and who are either citizens or eligible for citizenship if they so desire.

The Cherokee Nation Constitution does not exclude people from citizenship in the manner the 13<sup>th</sup> Amendment protects against. It includes for eligibility those whose verifiable ancestors are listed on the Dawes Rolls as Cherokees by Blood.

This Court takes judicial notice of the extensive racial diversity of the citizenry of the Cherokee Nation.

**IT IS THEREFORE ORDERED** by this Court that the Cherokee Nation District Court's Order is **reversed** and **vacated**.

**IT IS FURTHER ORDERED** by this Court that the Cherokee Nation District Court's Temporary Orders and Temporary Injunctions are **vacated** and shall have no further effect.

**IT IS FURTHER ORDERED** by this Court that this case is remanded to the District court with instructions to **DISMISS**.

**IT IS FURTHER ORDERED** by this Court that the Clerk of the Cherokee Nation Supreme Court shall serve a copy of this Opinion on the Cherokee Nation District Court and all parties.

Dated this 22nd day of August, 2011.

  
\_\_\_\_\_  
Chief Justice Darrell R. Matlock, Jr.

  
\_\_\_\_\_  
Justice James G. Wilcoxen

  
\_\_\_\_\_  
Justice Kyle B. Haskins

  
\_\_\_\_\_  
Justice Troy Wayne Poteete

Dissenting:

\_\_\_\_\_  
Justice Darrell Dowty



**CERTIFICATION OF MAILING**

I certify that a true and correct copy of the foregoing document, REVERSED AND REMANDED WITH INSTRUCTIONS TO DISMISS FOR WANT OF JURISDICTION, was mailed and/or transmitted via facsimile on this 22<sup>nd</sup> day of August, 2011 to the following:

A. Diane Hammons, fax # (918) 458-5099  
Ralph F. Keen, II, fax # (918) 696-3576

  
\_\_\_\_\_  
Kendall Bird, Court Clerk

Wilcoxon, J.

Specially Concurring Opinion

Plaintiff brings this petition as representative of a certified class below. Inasmuch as the action seeks enforcement of a treaty between the United States and the Cherokee Nation, Plaintiffs standing is suspect. The D.C. Circuit in *Vann v. Kempthorne*, 534 F.3d 741, 748 (D.C. Cir. 2008) recognized this.

“Nothing in §1 of the 13<sup>th</sup> Amendment so much as hints at a federal court suit by a private party to enforce the prohibition against badges and incidents of slavery against Indian tribes . . . The 1866 Treaty similarly lacks any clear abrogation of tribal sovereign immunity, as the 10<sup>th</sup> Circuit correctly concluded in *Nero*, 892 F.2d @1461 .

Treaties are agreements between sovereigns. Notwithstanding, because of the importance of the issues raised, this Court should now address the merits.

The Treaty of 1866 granted the Freedman “all the rights of Native Cherokees.” The question now is whether or not the members of the Cherokee Nation today can amend their Constitution to redefine their membership. Specifically, can they do so when the same would arguably not be in comport with a treaty.

The Cherokee Nation argues that the Tribe is free to determine its own membership, including the imposition of a blood requirement. The Tribe contends that the Freedman seek in effect a super-citizenship right that can never be removed. Nash relies upon the plenary power of Congress to regulate the Cherokee Nation and the supremacy of federal law, the Treaty of

1866 itself, the Thirteenth Amendment and Equal Protection as guaranteed by the Cherokee Constitution.

The issue presented here is without precedence. It pits the Tribe's right to determine its membership against rights arising from the Treaty of 1866 between the Cherokee Nation and the United States. It also raises issues of the limits of tribal sovereignty in the modern context.

The Tribe can be subject to substantive constraints imposed by Congress. *Vann v. Kempthorne*, 534 F.3d 741, 748 (D.C. Cir. 2008). Even so, Congress has not explicitly prohibited the Tribe from amending its Constitution to redefine its membership. While the D.C. Circuit found that there was nothing in the 13<sup>th</sup> Amendment or the 1866 Treaty which worked an abrogation of the Tribe's sovereign immunity, the Circuit nevertheless found that the Tribe no longer had a sovereign interest in conducting discriminatory elections. This conclusion comes in sharp contrast to the Tribe's inherent right to determine its own membership today. Notwithstanding, the Circuit Court stopped short of finding that the tribe could not define its membership through constitutional amendment.

The Circuit Court decision in *Vann* was an appeal of the 2006 decision by the District Court of the District of Columbia. The Circuit Court did not have before it the impact of the Constitutional Amendment in question here.<sup>1</sup> Notwithstanding, the Circuit Court did state that while the Tribe's immunity is still intact,

The Cherokee Nation simply has no interest in protecting a sovereignty concern that has been taken away by the United States. As the District Court went to great lengths to explain, *Vann*, 467 F.Supp. 2d at 66-

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<sup>1</sup> The Court below did acknowledge that the Tribe was making preparation to submit the issue of "Indian blood" to a vote of the people thereby amending the Tribe's Constitution. *Vann v. Kempthorne*, 467 F. Supp. 2d 56 (D.C. 2006) @n.3

70, the Thirteenth Amendment and the 1866 Treaty whittled away the Tribe's sovereignty with regard to slavery and left it powerless to discriminate against the Freedmen on the basis of their status as former slaves. The Tribe does not just lack a special sovereignty interest in discriminatory elections - it lacks any sovereign interest in such behavior. Vann, at 755-756.

Nevertheless, the determination by the District Court that the Tribe had no sovereign interest in conducting a discriminatory election came before the Tribe amended its Constitution. Moreover, this Court virtually invited the Cherokee people to vote on the issue. Allen v. Cherokee Nation, JAT-04-09, p.2. (Mar. 7, 2006). "The Cherokee citizenry has the ultimate authority to define tribal citizenship . . . The Constitution could be amended to require that all tribal members possess Cherokee blood." The Cherokee people have now exercised their right to amend their Constitution. The Tribe has now redefined its membership and this Court cannot now in good faith tell it that it cannot do so.

That the tribe might ultimately amend its Constitution to bring it into conformance with federal law is irrelevant to our sovereign immunity analysis, because any such change would not be the direct result of judicial compulsion. If the tribe pursues these changes, its discretion will not be steered by the judicial hand. Vann at 754.

Any constitutional change here is discretionary and simply cannot be dictated by this Court.



**Haskins, J.**

**Specially Concurring Opinion:**

While I join with the majority, I offer the following specially concurring opinion:

I respectfully suggest that the Freedmen should have timely raised their Constitutional and Treaty violation claims before passage of the Constitutional Amendment of March 3, 2007; however, they failed to do so. The Freedmen's failure to timely raise the issues at bar, until after March 3, 2007, has divested this Court and the lower court of subject matter jurisdiction.

Failure to properly and timely raise these issues denied this Court the opportunity to timely address these weighty issues and determine whether it should enjoin the vote which gave rise to the Constitutional Amendment of March 3, 2007. The March 3, 2007, special election was held in compliance with Cherokee law, and included voting members of the Freedmen. An overwhelming majority of the citizens of the Cherokee Nation voted to support the Constitutional Amendment.

Once the Cherokee Nation Constitution was amended by a popular vote of the people on March 3, 2007, it then became woven into the legal fabric of the Cherokee people - by which this Court must abide. This Court [The Supreme Court of the Cherokee Nation], is a *constitutionally created court*. Each Justice has individually taken an oath to defend our Constitution - *as a Whole*.

Regardless of how this Court's majority Opinion may be scrutinized and dissected, the issue at bar was not about race. The Court's majority Opinion neither supports nor rejects the

Freedmen's citizenship with the Cherokee Nation. We find only that the Cherokee Courts lack subject matter jurisdiction to now resolve the Freedmen challenge.

Whether the March 3, 2007, Cherokee Nation vote of self-determination of its citizenry violates the Treaty of 1866 between the Cherokee Nation and the United States of American is now an issue for the two governments to resolve. I would also like to point out that the United States of America never sought to intervene in these proceedings.

After lengthy delay, the Freedmen issue is now ripe for resolution. This Court is the gatekeeper of the integrity of the judicial branch of government. Any further delay in announcing the Court's majority Opinion is contrary to the will of the Cherokee people as expressed on March 3, 2007.

# **Exhibit 12**



August 23, 2011

## **Cherokee election officials scramble to adjust voter rolls**

**(<http://muskogee phoenix.com/local/x1699205162/Cherokee-election-officials-scramble-to-adjust-voter-rolls>)**

**Freedmen ruling expected to make 2,800 voters ineligible**

**By D.E. Smoot**

**Phoenix Staff Writer (<http://muskogee phoenix.com>)**

Cherokee Nation election officials scrambled Tuesday to determine the impact of a ruling removing an estimated 2,800 Cherokee Freedmen from tribal rolls.

Election officials have just 31 days before the Sept. 24 principal chief election to determine the pool of eligible voters.

The Cherokee Nation Supreme Court decision affects only the freedmen who can show no Cherokee lineage by blood. The number of registered voters who fall into that category was unknown Tuesday.

"We're going to be working our butts off," said Lloyd Cole Jr., the attorney for the Cherokee election commission. "We are going to find out who those people are and then remove them from the voting rolls before the upcoming election."

The 4-1 ruling found the tribe's judicial branch lacks the authority to decide whether the 2007 amendment that terminated citizenship of "non-Indians" is unconstitutional.

The four justices who signed off on the majority opinion state the constitution ratified by Cherokee voters in 2003 vests the people of the Cherokee Nation with the power to amend the constitution.

Freedmen citizenship granted in 1866, the court found, was done by a constitutional amendment approved by Cherokee citizens, not by a treaty with the U.S. government.

"It stands to reason that if the Cherokee people had the right to define ... citizenship in ... 1886, they would have the sovereign right to change the definition of the Cherokee nation citizenship in the March 3, 2007, constitutional amendment," the majority opinion states.

In Monday's ruling, justices maintained that if citizenship had been granted the freedmen by treaty, the freedmen would have no standing to sue. The only party that could properly bring the lawsuit, the court found, would be the federal government.



Marilyn Vann, president of the Descendants of Freedmen Association, questioned of the decision. Vann criticized the opinion, describing it as unfortunate.

"The timing of this (opinion) is right on the money — it has been sent to block the [redacted] from voting in this election," Vann said about the upcoming election. "It allows the chief (Chad Smith) to make the freedmen a wedge issue again."

Ron Graham, president of the Muskogee Creek Indian Freedmen Band, said the Five Civilized Tribes have been trying to disenfranchise freedmen for decades.

"The way they were going to do that is by eliminating their ability to vote," Graham said about early efforts to remove freedmen from tribal rolls. "We were eliminated back in 1979 in much the same way the Cherokee Nation is doing that now."

The supreme court's decision was handed down fewer than five weeks before Cherokee voters will elect the tribe's next principal chief.

The results of the June 23 general election were tossed out by the tribe's highest court after several ballot counts rendered it impossible to determine a winner with mathematical certainty.

The contest for principal chief pits incumbent Smith and challenger Bill John Baker, a longtime member of the tribal council. Baker initially was declared the unofficial winner June 24 and the official loser the next day.

Baker was declared the winner of a June 30 recount, but those results were invalidated after the court conducted a second recount.

Smith and Baker both said they would respect the court's decision. Smith said he doubts the ruling will have an impact on the upcoming election.

"The process has worked it's way through the courts and we have to respect what our Supreme Court has decided," Smith said. "The citizenship issue is important to our people, but I don't think the decision will have an impact on the upcoming elections."

Baker was unavailable for comment.

Reach D.E. Smoot at (918) 684-2901 or [dsmoot@muskogeephoenix.com](mailto:dsmoot@muskogeephoenix.com) (<mailto:dsmoot@muskogeephoenix.com>).



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MuskogeePhoenix.com, Muskogee, OK P. O. Box 1968 Muskogee, OK 74402-1968

# **Exhibit 13**

# KALYN FREE



ATTORNEY AT LAW

September 2, 2011

[election-commission@cherokee.org](mailto:election-commission@cherokee.org)

[colelaw@windstream.net](mailto:colelaw@windstream.net)

Cherokee Nation Election Commission

PO Box 1188

Tahlequah, OK 74465

Dear Commissioners:

On Tuesday, August 30, 2011, I attended the Special Meeting called by the Cherokee Nation Election Commission. One of the agenda items was: "Discussion and Possible Action Regarding Freedmen."

During the discussion, Wanda Beaver, the Office Administrator for the Commission stated that she was instructed by Lloyd Cole, Attorney for the Commission, to code the Freedmen as "Inactive" in the Cherokee Nation Voter Database.

I asked whether the specific provisions of the Cherokee Nation's election laws had been complied with. Specifically Section 24 mandates that voters are only to be removed from the Voter List upon receipt of "satisfactory evidence of death or disenrollment as specified by the Cherokee Nation Registration Office." Mr. Cole stated that he had complied with the Cherokee Nation Supreme Court's order and had taken action to have the Freedmen removed from the Voter List immediately upon receiving the Court's Order.

I then asked if the Freedmen had been sent Absentee Ballots as Section 73 of the Election Code clearly states that all registered voters who have requested Absentee Ballots should have been sent a ballot on August 29 and 30. Mr. Cole and Ms. Beaver said that the Freedmen had not been sent ballots.

After the conclusion of the meeting, in the presence of Commissioners Susan Plumb and Curtis Rohr, Lloyd Cole and other staff, Ms. Beaver did state that 1233 Freedmen had been coded "Inactive" and removed from the Voter List and that 354 Freedmen who had requested Absentee Ballots had not been sent ballots.

I very much appreciate the Commission providing the numbers of Freedmen who are registered voters and who requested absentee ballots to vote in the September 24, Chief's Election. If you have any reason, since our discussion of Tuesday, to believe that the numbers of disenfranchised Freedmen are different than the ones you provided earlier, please advise immediately.

Sincerely,



Kalyn Free

# **Exhibit 14**

**From:** Lloyd Cole [\[mailto:colelaw@windstream.net\]](mailto:colelaw@windstream.net)

**Sent:** Friday, September 02, 2011 1:24 PM

**To:** Kalyn Free

**Cc:** [wanda-beaver@cherokee.org](mailto:wanda-beaver@cherokee.org)

**Subject:** RE: letter for Commissioners

Mrs. Free

I acknowledge receipt of your transmittal of September 2, 2011 concerning your visit to the Commission meeting August 30, 2011. In response, your letter fails to mention that the action being taken to remove the freedman from our data base is that Nation voter registration removed them from their database as result of the Cherokee Nation Supreme Court's ruling that the legislation of citizenship is solely based upon blood and therefore the lawsuit filed by the freedman contesting that legislation has been dismissed overruling the District Court judgment, thereby losing their citizenship privileges.

Having made this observation your request will be directed to the Commission at their next regular meeting and you will be advised. If you have any other questions regarding this matter please feel free to contact me or the Commission office. lecjr.

-----Original Message-----

**From:** Kalyn Free [\[mailto:kfree@cwis.net\]](mailto:kfree@cwis.net)

**Sent:** Friday, September 02, 2011 12:13 PM

**To:** [election-commission@cherokee.org](mailto:election-commission@cherokee.org); Lloyd Cole

**Subject:** letter for Commissioners

Dear Election Commission Staff:

Please see that the Commissioners receive the attached letter.

Thanks much,  
Kalyn

**Kalyn Free**

**Attorney at Law**

2248 E 48<sup>th</sup> St

Tulsa OK 74105

918.916.0716 (cell)

918.779.4276 (fax)

# **Exhibit 15**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

MARILYN VANN, DONALD MOON, )  
RONALD MOON, HATTIE CULLERS, )  
CHARLENE WHITE, and RALPH )  
THREAT, )

Plaintiffs, )

v. )

KENNETH SALAZAR, Secretary of the )  
United States Department of the Interior; )  
UNITED STATES DEPARTMENT OF )  
THE INTERIOR, )

CHEROKEE NATION OF OKLAHOMA) )

JOE CRITTENDEN, Individually and )  
in His Official Capacity )

John Does, Individually and in their )  
official capacity )

Defendants, )

Case No.: 1:03cv01711 (HHK)

Judge: Henry H. Kennedy

Docket Type: Civil Rights  
(non-employment)

Date Stamp: 08/11/03

**DECLARATION OF CHARLENE WHITE**

I, Charlene White do hereby state:

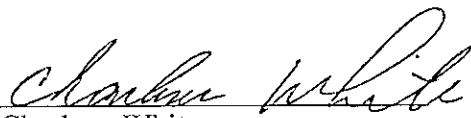
1. I am a citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I voted in the June 2011 election for Cherokee Nation Officials.
3. I receive medical treatment through the Cherokee Nation of Oklahoma's Mankiller Clinic in Stillwell, Oklahoma, as well as referred out to other contracted medical providers.
4. These services have been paid by the Cherokee Nation of Oklahoma because I am a citizen of the Tribe.

5. I suffer from glaucoma and cataracts.
6. I have been receiving treatment for these issues since April 2006. Treatment has included testing approximately every 3 months. I receive glasses approximately every four months due to my deteriorating eyesight. These would likely cost me hundreds of dollars for each pair. I receive eye drops every month. These would cost about \$80.00.
7. The cataracts have been monitored. It is possible I may need to have them removed. This would be a very expensive treatment.
8. Without ongoing treatment I will likely lose my sight.
9. The Cherokee Nation of Oklahoma's recent decision to terminate my citizenship will cause me to lose the medical treatment I am currently receiving.
10. I cannot afford to pay for these services.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of September, 2011.

By:

  
Charlene White



# **Exhibit 16**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,

Plaintiffs,

v.

KEN SALAZAR, Secretary of the United  
States Department of the Interior;

UNITED STATES DEPARTMENT OF THE  
INTERIOR;

CHADWICK SMITH, Individually and in His  
Official Capacity;

S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and

John Does, Individually and in Their Official  
Capacity,

Defendants.

Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)

DECLARATION OF RAYMOND NASH

I, Raymond Nash do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in Cherokee Nation elections
3. I voted in the June 2011 election.
4. I have a Cherokee car tag.
5. I have applied for Cherokee medical benefits.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By: Raymond Nash  
Raymond Nash

# **Exhibit 17**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF ZENOBIA KING-HOWARD**

I, Zenobia King-Howard, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.

4. Recipient of healthcare and treatment from Three Rivers in Muskogee, I have no other health coverage, if rejected by Cherokee Nation I will not be able to afford my medications or maintain my health.
5. I have volunteered my time to communities a part of Cherokee Nation.
6. I participate in the Cherokee Nation Parade for four consecutive years.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By: Zenobia King Howard

Zenobia King Howard

645 N. 18<sup>th</sup> Street, Muskogee, Ok 74403

Notarized by: (Rodger Brown)

Commission Number: 01000521

Expiration Date: 02-14-13

# **Exhibit 18**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF MELISSA CHAPLIN**

I, Melissa Chaplin, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation, and have a descendant on the Dawes Roll, Nancy Ward.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.



4. My children were discriminated against at school by withholding school supplies that they normally receive through their school by being Cherokee. Their names were not called to leave the classroom to receive their supplies.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By Melissa Chaplin  
Melissa Chaplin  
143 North 4 Mile Rd., Ft. Gibson, Ok 74434

Notarized by: (Rodster Brown)  
Commission Number: 01000521  
Expiration Date: 02-14-13

# **Exhibit 19**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF SHENEDDA GASTON**

I, Shenedda Gaston, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation, but have a descendant on the Dawes Roll, Nancy Ward.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.

4. Recipient of healthcare and treatment from Three Rivers in Muskogee, I have no other health coverage, if rejected by Cherokee Nation I have NO coverage at all.
5. I received HUD through Cherokee Nation, which was not executed properly to code, because of me bringing it to their attention; I was told that I violated the contract and that they needed me to be recertified, after I was informed that the Freedmen were no longer tribal citizens. This has been a two year process and my house is not safe to live in.
6. I have volunteered my time to communities a part of Cherokee Nation.
7. I participate in the Cherokee Nation Parade for four consecutive years and have embraced our culture.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1<sup>st</sup> day of September, 2011.

By: Shenedda Gaston  
Shenedda Gaston  
145 N. 4 Mile Rd., Ft. Gibson, Ok 74434

Notarized by: (Roderick Brown)  
Commission Number: 01000521  
Expiration Date: 02-14-13

# **Exhibit 20**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF VERRESSA L. GASTON**

I, Verressa L. Gaston, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation, but have a descendant on the Dawes Roll, Nancy Ward.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.

4. Recipient of healthcare and treatment from Three Rivers in Muskogee. I had an appointment at Three Rivers for dental; however they called and pushed my appointment back to October.
5. If rejected from Cherokee Nation, I will have to pay excise tax on my car tag, which I just purchased.
6. I will not be able to afford to continue my education without scholarship funding through Cherokee Nation, once rejected.
7. I have volunteered my time to communities a part of Cherokee Nation.
8. I participate in the Cherokee Nation Parade for four consecutive years and have embraced our culture.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 15 day of September, 2011.

By:  Verressa Gaston

Verressa Gaston

145 N. 4 Mile Rd., Ft. Gibson, Ok 74434

Notarized by: (Rodster Brown)

Commission Number: 01000521

Expiration Date: 02-14-13

# **Exhibit 21**



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF COURTNEY GASTON**

I, Courtney Gaston, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation, and have a descendant on the Dawes Roll, Nancy Ward.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.
4. I have volunteered my time to communities a part of Cherokee Nation.

5. I receive a scholarship from the Cherokee Nation for \$2,000.00
6. If I withdraw, I will not be eligible for the scholarships referenced above.
7. I will not be able to afford to continue my education without scholarships.
8. I receive healthcare from Cherokee Nation. I am in college and cannot afford any health coverage for myself.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1st day of September, 2011.

By: Courtney Gaston  
Courtney Gaston  
145 North 4 Mile Rd., Ft. Gibson, Ok 74434

Notarized by: (Rodster Brown)  
Commission Number: 01000521  
Expiration Date: 02-14-13

# **Exhibit 22**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

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**DECLARATION OF DEBRA OWENS**

I, Debra Owens, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.
4. Recipient of healthcare and treatment from Three Rivers in Muskogee, I have congestive heart failure and a pace maker. I suffer from sleep apnea, and have had

severe heart attacks and strokes, if rejected by Cherokee Nation I will suffer severe heart issues, possibly death. I take over 30 pills a day, every day, with insulin, and I rely on a portable oxygen tank. If Cherokee Nation rejects me I will not be able to afford ANY medication.

5. I have volunteered my time to communities a part of Cherokee Nation.
6. I participate in the Cherokee Nation Parade for four consecutive years.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By: Debra Owens

Debra Owens

536 West Martin Luther King, Muskogee, Ok 74401

Notarized by:

(Rodster Brown)

Commission Number:

01000521

Expiration Date:

02-14-13

# **Exhibit 23**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF ASHLEY LOGAN KNAPPER**

I, Ashley Logan Knapper do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.
4. I received immediate care with the birth of my child at Hastings hospital in Tahlequah, Ok.

5. I have volunteered my time to communities a part of Cherokee Nation.
6. I receive a scholarship from the Cherokee Nation for \$2,000.00
7. If withdraw, I will not be eligible for the scholarships referenced above.
8. I will not be able to afford to continue my education without scholarships.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 01 day of September, 2011.

By: 

Ashley Logan Knapper

Notarized by: 

(Rodster Brown)

Commission Number: 401000521

Expiration Date: 02-14-13



# **Exhibit 24**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)**

**Judge: Henry H. Kennedy**

**Docket Type: Civil Rights  
(non-employment)**

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**DECLARATION OF RENA LOGAN**

I, Rena Logan, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.

4. Recipient of healthcare and treatment from Three Rivers in Muskogee, I have rheumatoid arthritis, hypertension and osteoarthritis, if rejected by Cherokee Nation I will not be able to afford my medications.
5. I have a dislocated disc in my back and fibromyalgia that I receive treatment from Three Rivers.
6. I have volunteered my time to communities a part of Cherokee Nation.
7. I participate in the Cherokee Nation Parade for three consecutive years.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By:

Rena Logan  
Rena Logan

3409 E. Monta, Muskogee, Ok 74403

Notarized by:

(Rockster Brown)  
Commission Number: #01000521  
Expiration Date: 02-14-13

# **Exhibit 25**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF JOHNNY TOOMER**

I, Johnny Toomer, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.
4. I receive healthcare through Three Rivers in Muskogee.

Executed this 1 day of September, 2011.

By: Johnny Toomer  
Johnny Toomer  
2627 Oklahoma St.  
Muskogee, Ok 74401

Notarized by: (Rodster Brown)  
Commission Number: # 01000521  
Expiration Date: 02-14-13

# **Exhibit 26**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

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**DECLARATION OF TOMMY LEE MCNAC**

I, Tommy Lee McNac Jr., do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation, and have a descendant on the Dawes Roll, Nancy Ward.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.



4. I needed another copy of my blue card, however registration told me in 2006 I was issued a blue card but no my rights are denied and that they cannot give me a copy of my card and that they are asking for Freedmen Cherokees to send their cards back.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By: Tommy Lee McNac Jr.

Tommy Lee McNac Jr.

P.O. Box 254, Muskogee, Ok 74401

Notarized by: (Redsten Brown)

Commission Number: 01000521

Expiration Date: 02-14-13

# **Exhibit 27**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,  
DONALD MOON, CHARLENE WHITE,  
RALPH THREAT, FAITH RUSSELL,  
ANGELA SANDERS, SAMUEL E. FORD,  
and THE FREEDMEN BAND OF THE  
CHEROKEE NATION OF OKLAHOMA,**

**Plaintiffs,**

**v.**

**KEN SALAZAR, Secretary of the United  
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR;**

**CHADWICK SMITH, Individually and in His  
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in  
His Official Capacity; and**

**John Does, Individually and in Their Official  
Capacity,**

**Defendants.**

**Case No: 1:03cv01711 (HHK)  
Judge: Henry H. Kennedy  
Docket Type: Civil Rights  
(non-employment)**

**DECLARATION OF ANNA H. NICHOLSON**

I, Anna H. Nicholson, do hereby state:

1. I am a registered citizen of the Cherokee Nation. I descend from ancestors listed on the Freedmen Roll of the Cherokee Nation.
2. I am registered to vote in the Cherokee Nation elections.
3. I voted in the June 2011 election.
4. Recipient of healthcare and treatment from Three Rivers in Muskogee, I have autoimmune hepatitis, if rejected by Cherokee Nation I will suffer severe scarring

of the liver and even liver failure, because I have little to no health coverage. I take 26 pills a day, every day, with insulin, and if Cherokee Nation rejects me I will not be able to afford ANY medications.

5. I have volunteered my time to communities a part of Cherokee Nation.
6. I participate in the Cherokee Nation Parade for four consecutive years.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1 day of September, 2011.

By: Anna H. Nicholson  
Anna H. Nicholson  
1625 Chicago, Muskogee, Ok 74401

Notarized by: [Signature] (Rodsten Brown)  
Commission Number: # 01000521  
Expiration Date: 02-14-13