

3. Paragraph 3 contains Plaintiff's characterization of the basis and nature of its claim, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.
4. Paragraph 4 consists of legal conclusions, to which no response is required. However, Federal Defendants deny that this Court possesses subject matter jurisdiction over Plaintiff's claim against the Federal Defendants.
5. Paragraph 5 contains a legal conclusion, to which no response is required.
6. The Federal Defendants lack sufficient knowledge or information to admit or deny the allegations in Paragraph 6 and therefore deny them.
7. The Federal Defendants admit that the Cherokee Nation abolished slavery within its boundaries in 1863, and that the former slaves are often referred to as the Freedmen. The Federal Defendants lack sufficient knowledge or information to admit or deny the remaining allegations in Paragraph 7 and therefore deny them.
8. The Federal Defendants admit that the Cherokee Nation and the United States signed a Treaty in 1866. Article IX of this Treaty states that the Cherokee Nation "further agree that all freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees. . . ." The Federal Defendants admit that the Cherokee Nation amended its constitution in 1866. The remainder of Paragraph 8 states a legal conclusion to which no response is required. To the extent a response is required, the Federal Defendants deny the allegations in Paragraph 8.

9. The Federal Defendants admit that on March 3, 1871, Congress passed the Indian Appropriations Act which contained a provision stating, “No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty. . . .” *See* 25 U.S.C. § 71.
10. The Federal Defendants admit that the Dawes Commission, which was named after its chairman Henry Dawes, was authorized by Congress in 1893, and that this Commission created rolls that included the categories of Cherokee by Blood, Cherokee Freedmen, Delaware Cherokees, and Cherokees by Intermarriage. The Federal Defendants lack sufficient knowledge or information to admit or deny the remaining allegations in Paragraph 10 and therefore deny them.
11. The Federal Defendants admit that Congress passed the Five Tribes Act, ch. 1876, 34 Stat. 137, in 1906. The remainder of Paragraph 11 states a legal conclusion, to which no response is required. To the extent a response is required, the Federal Defendants deny the allegations in Paragraph 11.
12. Paragraph 12 contains legal conclusions, to which no response is required. To the extent a response is required, the Federal Defendants deny the allegations in Paragraph 12.
13. The Federal Defendants admit that the Secretary of the Interior is authorized by statute to administer certain programs that benefit Indian tribes and their members. The Federal Defendants deny any remaining allegations in Paragraph 13.

COUNT 1

14. Paragraph 14 contains Plaintiff's characterization of the basis and nature of its claim, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations in Paragraph 14.

15. Paragraph 15 contains Plaintiff's characterization of the individual defendants' claims, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations in Paragraph 15.

16. Paragraph 16 asserts the Cherokee Nation's contentions about the Treaty of 1866, and no response is required. To the extent a response is required, the Federal Defendants deny the allegations in Paragraph 16.

17. Paragraph 17 states a legal conclusion to which no response is required. To the extent a response is required, the Federal Defendants deny the allegations in Paragraph 17.

18. Federal Defendants deny the allegations in Paragraph 18.

PRAYER FOR RELIEF SECTION

The balance of the Complaint provides the Plaintiff's prayer for relief to which no response is required. To the extent a response is required, the Federal Defendants deny that the Plaintiff is entitled to its requested relief or to any relief whatsoever.

GENERAL DENIAL

To the extent the Federal Defendants have not answered each and every factual allegation of the Amended Complaint, they specifically deny those unanswered allegations.

DEFENSES

1. Plaintiff's claim is not within the subject matter jurisdiction of this Court.
2. Plaintiff's claim is barred by the United States' sovereign immunity.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July, 2012, I electronically transmitted the attached document to the Court using the ECF system, which indicates that Notice of Electronic Filing will be sent to the following counsel:

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