

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA**

(1) THE CADDO NATION OF OKLAHOMA, and )

(2) BRENDA EDWARDS, in her capacity as )

Chairman of The Caddo Nation of Oklahoma, )

Plaintiffs, )

vs. )

Case No. CIV-14-281-D

(1) THE COURT OF INDIAN OFFENSES )

FOR THE ANADARKO AGENCY, )

Defendant. )

**COMPLAINT FOR DECLARATORY JUDGMENT,  
PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

The Caddo Nation of Oklahoma and Brenda Edwards, in her capacity as Chairman of the Caddo Nation, for their complaint for declaratory judgment, a permanent injunction and other equitable relief, states as follows:

**JURISDICTION AND VENUE**

1. The Caddo Nation of Oklahoma (“Caddo Nation” or “Nation”) is a federally recognized Indian tribe. 75 Fed. Reg. 60810, 60811 (October 1, 2010). The Caddo Nation is a domestic sovereign under the protection of the laws, jurisdiction, and government of the United States of America and is governed by a constitution and bylaws originally adopted on June 26, 1976, pursuant to the Nation’s inherent sovereign authority. *Exhibit 1*, Caddo Nation Constitution and By-Laws. The Nation’s headquarters are located near Binger, Caddo County, Oklahoma, on property held by the United States in trust for the Nation. The Caddo Nation, its offices and its property are within the service area of the Anadarko Agency and the Southern Plains Regional Office (“SPRO”) of the Bureau of Indian Affairs (“BIA”), United States Department of Interior (“DOI” or “Interior”).

<http://www.bia.gov/WhoWeAre/RegionalOffices/SouthernPlains/WeAre/Anadarko/index.htm>.

2. The Court of Indian Offenses for the BIA SPRO Anadarko Agency is established and operated by the DOI pursuant to 5 U.S.C. § 301, 25 U.S.C. § 2, 25 U.S.C. § 9, 25 U.S.C. § 13, 25 U.S.C. § 200, and must operate in accordance with 25 C.F.R. Part 11.

3. This is an action for declaratory judgment pursuant to 28 U.S.C. § 2201 to determine an actual controversy between the parties. Further, Plaintiffs seek an injunction under Rule 65 of the Federal Rules of Civil Procedure. Because the plaintiff's cause of action arises under the laws and regulations of the United States, specifically 25 C.F.R. Part 11, this Court has original jurisdiction under the authority of 28 U.S.C. § 1331 (federal question), § 1346 (United States as defendant), and § 1362 (Indian tribe as plaintiff).

4. Venue properly lies in the United States District Court for the Western District of Oklahoma under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this claim occurred within this judicial district.

### **FACTS**

5. Plaintiffs, the Caddo Nation of Oklahoma and Brenda Edwards adopt and reallege the allegations in Paragraphs 1 through 4.

6. The United States Department of Interior ("DOI" or "Interior") has established a system of Courts of Indian Offenses ("CFR Court") in Oklahoma to provide judicial services to Indian Nations that have no judicial system. The regulations controlling the Court of Indian Offenses are outlined in 25 C.F.R. Part 11.

7. The CFR Court for the Anadarko Agency acts a tribal court for the Caddo Nation of Oklahoma pursuant to 25 C.F.R. § 11.100(b).

8. The CFR Court's jurisdiction is limited as laid out in 25 C.F.R. § 11.118.

Specifically, the section provides that:

(b) A Court of Indian Offenses may not adjudicate an election dispute, take jurisdiction over a suit against a tribe, or adjudicate any internal tribal government dispute, unless the relevant tribal governing body passes a resolution, ordinance, or referendum granting the court jurisdiction.

Further, the section provides that:

(d) A tribe may not be sued in a Court of Indian Offenses unless its tribal governing body explicitly waives its tribal immunity by tribal resolution or ordinance.

9. The Caddo Nation has not granted authority to the CFR Court to adjudicate tribal disputes. Pursuant to Tribal Resolution 07-2005-02, which rescinded Tribal Resolution 07-2003-01, the Caddo Nation specifically revoked authorization for the Court of Indian Offenses to adjudicate any internal tribal disputes and election disputes. *c.f. Exhibit 2*, Resolution 07-2003-01 and *Exhibit 3*, Resolution 07-2005-02; *See Exhibit 11*,

10. In July 2013, Brenda Edwards was elected Chairman of the Nation. The election was certified and Ms. Edwards was duly sworn in.

11. Shortly thereafter, on or about August 22, 2013, the Secretary of the Caddo Nation received a Petition to recall Brenda Edwards. After review of the Petition, on August 29, 2013, the Secretary reported that "not enough valid registered voter signatures that signed the petition." *Exhibit 4*, Letter from Secretary. Thus, pursuant to Article XII, § 2 of the Caddo Nation Constitution, the Petition failed. *Exhibit 1*, Constitution.

12. Nonetheless, Mr. Philip Smith allegedly held an illegal meeting to remove Chairman Edwards. Under the Caddo Nation Constitution, he was not authorized to hold the meeting. *Exhibit 1*, Constitution. At that meeting, Mr. Smith allegedly held a vote to recall

Chairman Edwards, which allegedly passed. After that, Mr. Smith by force took over the Tribal Headquarters on September 25, 2013. *Exhibit 5*, Police Statements.

13. On October 19, 2013, pursuant to a duly called meeting of the Membership by Chairman Edwards, the Membership of the Caddo Nation held that Philip Smith, DeLita Butler, Christine Noah, and Ann Donaghey forfeited their positions as Tribal Council Members because they each missed four meetings without just cause. *Exhibit 6*, Resolution # 10-2013-01.

14. Despite forfeiting their positions, Philip Smith, DeLita Butler, Christine Noah, and Ann Donaghey have failed and refused to allow Ms. Edwards and the rightful Caddo Nation government to resume governmental functions at the Tribal Headquarters. Moreover, on information and belief, Philip Smith, DeLita Butler, Christine Noah, and Ann Donaghey have illegally set up a sham government to mislead the public and the United States that they are the rightful government of the Caddo Nation.

15. On or about March 13, 2014, “the Caddo Nation of Oklahoma” filed a Petition for Injunction and for Temporary and Permanent Restraining Order in the CFR Court despite the fact that there was no resolution authorizing suit in the CFR Courts. *Exhibit 7*, Petition.

16. Based on the Petition, on or about March 13, 2014, the CFR Court issued an *ex-parte* “Emergency Temporary Injunction and Order” against Chairman Edwards. Moreover, the Injunction ordered:

**Further any third party that owes money to the Nation shall pay the funds to Petitioner and the Third Party Payor is relieved from any further liability with regard to the payment herein.**

Such order was entered *ex-parte* without any notice or opportunity to be heard by Chairman Edwards or the true Caddo Nation of Oklahoma. Finally, the order, even though it directed the payment of money to Petitioner, did not provide for any bond as required by Rule 65 of the

Federal Rules of Civil Procedure to the extent that such *ex-parte* order may be invalid. *Exhibit 8*, Emergency Temporary Injunction.

17. Moreover, the “Emergency Temporary Injunction and Order” has never been personally served on Chairman Edwards as required by Rule 65 of the Federal Rules of Civil Procedure. Yet, the order has been served on all persons and entities doing business with the Caddo Nation of Oklahoma which has significantly disrupted services.

18. On or about March 17, 2014, Chairman Edwards specially appeared in the CFR Court and sought an Emergency Motion to Dissolve the Emergency Temporary Injunction. *Exhibit 9*, Motion to Dissolve Injunction. Chairman Edwards could not seek relief on Friday March 14, 2014 because the CFR Court is closed. Counsel for Chairman Edwards provided notice to Counsel for Mr. Smith. Unlike the prior Motion, the Court did not immediately hear the motion, but instead set it for hearing on March 20, 2014 at 2:00 P.M.

19. In the interim, Mr. Philip Smith has attempted to use the order to obtain monies from the Caddo Nation’s Bank Account which has in excess of \$1.5 million dollars in it. *Exhibit 10*, Facsimile to Firststar Bank.

20. Thus, there is an imminent threat of immediate irreparable harm to the Caddo Nation by the CFR Court, a creation of Federal regulations.

21. The CFR Court does not have authority to enter the Emergency Temporary Injunction.

22. Moreover, the Caddo Nation Tribal Council has reaffirmed that the CFR Court’s do not have jurisdiction.

23. Finally, there is a significant risk that if this Court does not act, Mr. Smith’s “Caddo Nation” will continually grant authority to the CFR Court and the true Caddo Nation will

reaffirm that the CFR Court does not have jurisdiction thereby creating a situation that will result in the exercise and dismissal of actions on a continual basis. This Court must decide this issue once and for all.

**FIRST CAUSE OF ACTION  
DECLARATORY RELIEF - SOVEREIGN IMMUNITY**

24. The Plaintiffs, Brenda Edwards and the Caddo Nation, adopt and reallege the allegations in Paragraphs 1 – 23 of this Complaint.

25. An actual controversy exists between the parties regarding the assumption of jurisdiction by the CFR Court as to whether the Caddo Nation and Chairman Edwards, in her capacity as Chairman of the Caddo Nation, have waived sovereign immunity to suit in the CFR Court in accordance to 25 CFR § 11.118(d).

26. The Emergency Temporary Injunction issued by the CFR Court exceeds its authority. Thus, the order should be declared “null and void.”

27. The Caddo Nation and Chairman Edwards are entitled to a declaratory judgment that the CFR Court lacks jurisdiction over any suit against the Caddo Nation or one of its officials acting within her authority.

**SECOND CAUSE OF ACTION  
DECLARATORY RELIEF – ADJUDICATION OF AN INTERNAL TRIBAL DISPUTE**

28. The Plaintiffs, Brenda Edwards and the Caddo Nation, adopt and reallege the allegations in Paragraphs 1 – 27 of this Complaint.

29. An actual controversy exists between the parties regarding the assumption of jurisdiction by the CFR Court over an internal tribal dispute in accordance to 25 CFR § 11.118(b).

30. The Emergency Temporary Injunction issued by the CFR Court exceeds its authority. Thus, the order should be declared “null and void.”

31. The Caddo Nation and Chairman Edwards are entitled to a declaratory judgment that the CFR Court lacks jurisdiction over internal tribal disputes.

**THIRD CAUSE OF ACTION  
INJUNCTION – SOVEREIGN IMMUNITY**

32. The Plaintiffs, Brenda Edwards and the Caddo Nation, adopt and reallege the allegations in Paragraphs 1 – 31 of this Complaint.

33. The Emergency Temporary Injunction issued by the CFR Court exceeds its authority. Thus, the order should be declared “null and void.”

34. The Caddo Nation and Chairman Edwards are entitled to an injunction preventing the CFR Court from exercising jurisdiction over any suit against the Caddo Nation or one of its officials acting within her authority.

**THIRD CAUSE OF ACTION  
INJUNCTION – INTERNAL TRIBAL DISPUTE**

35. The Plaintiffs, Brenda Edwards and the Caddo Nation, adopt and reallege the allegations in Paragraphs 1 – 34 of this Complaint.

36. The Emergency Temporary Injunction issued by the CFR Court exceeds its authority. Thus, the order should be declared “null and void.”

37. The Caddo Nation and Chairman Edwards are entitled to an injunction preventing the CFR Court from exercising jurisdiction over internal tribal disputes.

WHEREFORE, the Caddo Nation of Oklahoma and Chairman Brenda Edwards respectfully request this Court to enter judgment in their favor and against the Court of Indian Offenses, which is created by Federal regulation, as follows:

1. A declaratory judgment that the Court of Indian Offenses has no jurisdiction to entertain a lawsuit against the Caddo Nation or any of its officials;
2. A declaratory judgment that the Court of Indian Offenses has no jurisdiction over intra tribal disputes;
3. An injunction prohibiting the Court of Indian Offenses from exercising jurisdiction against the Caddo Nation or any of its officials; and
4. An injunction prohibiting the Court of Indian Offenses from exercising jurisdiction over intra-tribal disputes.
5. Such other relief as this Court deems appropriate.

Dated this 20<sup>th</sup> Day of March 2014.

Respectfully submitted,

/s/Eugene Bertman

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