

United States District Court  
For the District Of Vermont

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

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George & Willow Feller, et al,  
Plaintiffs

V

Civil Action, 5:16-cv-00061-gwc

Narragansett Indian Tribal Historic  
Preservation Office  
Defendant

Objection to Plaintiffs Motion to Remand Case Pursuant to 28 U.S.C 1447(c)

Now Comes the Defendant Narragansett Indian Tribal Historic Preservation Office herein after NITHPO objecting to Plaintiff's Motion to Remand.

The Plaintiff argues there is no original jurisdiction vested in the court to hear this case, the Defendant NITHPO disagrees. Upon the filing of the Notice of Removal the Defendant NITHPO in its statement of facts gave a litany of law that supported its right to remove the case and the jurisdiction of this court. (see Original filing of Notice of Removal).

Further, the Plaintiff's Objection raises only one issue, money, and that the removal is defective because it does not reach the amount of 75,000 dollars, as stated in 28 U.S.C 1332(a). The Plaintiff ignores the other provisions of 28 USC 1331, which states "the district court shall have original jurisdiction over matters that arise under the Constitution, laws, or treaties of the United States".

Memorandum of Law:

The Defendant states this case is not just about money. It is about land now owned by an Indian Tribal Government, the right of an Indian tribe to be heard by a court of competent jurisdiction, a non-governmental party attempting to attach the federal contracts and federal contract support dollars of a tribal government or tribal governmental entity for the purpose of payment, the failure of the Plaintiff to exhaust tribal remedy and lastly the immunity of Defendant from suit. Pursuant, to 28 U.S.C. 1362, the United States District Court has original jurisdiction over civil action brought by any Indian Tribe or band with a governing body duly recognized by the Secretary of Interior, where in the matter in controversy arises under the Constitution, laws, or treaties of the United States. Any one of the issues stated is enough for the court to assert original jurisdiction, pursuant to 28, U.S.C 1331, 28 U.S.C. 1362 and/or 28 U.S.C 1441(a) and (c). Removal and tribal exhaustion are sustained and supported by Luckerman v. Narragansett Indian Tribe C.A. No. 13-185 S, and affirmed by the First Circuit in Luckerman v. Narragansett Indian Tribe No. 14-1106 on a denial of a Motion to Dismiss Order (1<sup>st</sup> Cir. Aug.29 2014) and 1<sup>st</sup> Cir. denial of Motion for Reconsideration May 29, 2015.

Further, in analyzing the Plaintiffs argument and the plain language of the citations used in this case specifically Countrywide Home Loans, Inc. v. Young, at Page 2, this court, based on the decisions of the First Circuit may be more inclined to use this citation to grant the Defendants request rather than grant the Plaintiffs relief. Finally, the Defendant clearly cites the requisite federal law and jurisdiction as a backdrop to our argument for removal to sustain such a removal in keeping with the case cited by the Plaintiff.

The case as argued by the Plaintiff is not on point and favors the Defendant more than the Plaintiff.

Wherefore, based on the aforementioned the Defendant NITHPO hereby requests the court to deny the Plaintiffs Motion to Remand.

Respectfully Submitted,



John Brown, THPO for Defendant Pro Se  
Narragansett Indian Tribal Historic Preservation Office  
4425 South County Trail, Charlestown, RI 02813  
401-491-9459  
Tashtesook@aol.com

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