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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

LEONARD WATTERSON

Plaintiff,

v.

JULIE FRITCHER AND DOES 1-10,

Defendants

Case No.

**COMPLAINT FOR STATUTORY
TRESPASS, COMMON LAW
TRESPASS; NUISANCE; CONVERSION;
DECLARATORY JUDGMENT
AND DEMAND FOR JURY TRIAL**

Date:

Time:

Courtroom:

Judge:

DEMAND FOR JURY TRIAL (FRCP 38)

PLAINTIFF, LEONARD WATTERSON, (hereinafter "Plaintiff") alleges as follows:

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COMPLAINT FOR STATUTORY TRESPASS, COMMON LAW TRESPASS, NUISANCE
CONVERSION, DECLARATORY RELIEF AND REQUEST FOR JURY TRIAL

NATURE OF THE COMPLAINT

Plaintiff, LEONARD WATTERSON, brings this civil action against Defendant JULIE FRITCHER AND DOES 1-10 (collectively referred to as "Defendants") to obtain an appropriate remedy for Defendants' unlawful trespass and ongoing possession of Indian Allotment Lands under 25 C.F.R. part 162.106 (a) and 163.29; other Federal laws and state common law trespass statutes and state law causes of action for Defendant' willful trespass to Indian Allotment Lands.

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 in that the action arises under the Constitution, laws and regulations of the United States.

2. This Court has jurisdiction pursuant to 25 U.S.C. §1353 because the action involves the rights of plaintiff to allotments of Indian land.

3. This Court has jurisdiction pursuant to 25 U.S.C. §345 because plaintiffs claims to be entitled to allotments and other parcels of land granted to them pursuant to Congressional Acts.

4. The Court has jurisdiction over the pendant state law claims pursuant to 28 U.S.C. § 1367 because these claims are so related to the federal claims that they are part of the same case or controversy under Article III of the United States Constitution.

5. This Court has subject matter jurisdiction as this is an action for a declaratory judgment under 28 U.S.C. §2201.

6. Venue is appropriate in this Court pursuant to 28 U.S.C. §1391 (b)(1) because both parties are domiciled in the State of California and the property at issue is located within the Eastern District-Fresno Division- of the State of California.

PARTIES

7. Plaintiff, Leonard Watterson, is a citizen of California and resides in Inyo County. Plaintiff is an enrolled member of the Lone Pine Indian Reservation and holds a possessory interest in Indian lands, located in Inyo County. As set forth below, Plaintiff was assigned Lot 28, by the Lone Pine Indian Tribe and the Owens Valley Land Ordinance Board of Trustees.

8. Defendant, JULIE FRITCHER, is a citizen of California and resides in Inyo County, California. Defendant Miller is currently trespassing upon Lot 28.

9. DOES 1-10 are currently unidentified but are alleged to be acting at the direction or on behalf of defendant Madge Miller. If and when said identities of the DOES are known, Plaintiff shall amend the complaint to properly include these individuals as defendants.

FACTUAL ALLEGATIONS

10. The United States Department of Interior, Bureau of Indian Affairs ("BIA") purchased the Allotment at the center of this controversy pursuant to the Trust Agreement and Rehabilitation Grant to Unorganized Bands, approved April 17, 1939 by the Secretary of the Department of the Interior, (hereinafter the "Agreement").

11. Subsequent to the Agreement, the unorganized bands located in the Owens Valley, now organized, (Bishop, Big Pine and Lone Pine Reservations), enacted the Owens Valley Land Ordinance, (hereinafter the "Land Ordinance") on or about February 1, 1962. The Land Ordinance governs the lands acquired on behalf of the members of the unorganized bands pursuant to the Agreement. The Land Ordinance also sets the terms and conditions for acquiring Lands purchased under the Agreement and governed by the Ordinance. The Land Ordinance is governed by a Board of Directors (hereinafter "Board"), whose duties are to ensure tribal member compliance with the Land Ordinance.

1 12. The Land Ordinance at Article 1, validated existing Land Assignments for
2 Band members living on land purchased under the Agreement, but before the enactment of the
3 Land Ordinance. Plaintiff's Grandfather, Pete Thomas, was living on the assignment at issue
4 before the enactment of the Land Ordinance, and thus, his assignment was validated pursuant
5 to Article 1 of the Ordinance.

6 13. Pursuant to The Land Ordinance at Section D(9) Land assignments are not
7 subject to inheritance. However, an assignee may designate a beneficiary who may receive the
8 assignment upon the assignees death. Section D(9) expressly states "trustees shall give
9 (designees) preference in granting the assignment."

10 14. After Pete Thomas', death, on June 3, 1987, the Lone Pine General Council
11 voted to assign Lot 28, to Plaintiff, Leonard Watterson. (See Ex. A)

12 15. On June 3, 1987, the Owens Valley Land Ordinance Board of Directors ratified
13 the Lone Pine Tribe's decision to grant the assignment to Plaintiff, Leonard Watterson. (See Ex.
14 B).

15
16 **Julie Fritcher's Continuing Trespass**

17 16. Prior to the transfer of the assignment to Plaintiff, Defendant, Julie Fricher, had
18 taken up residence within the assignment. Fritcher has been trespassing on the Assignment
19 since before 1987.

20 17. Defendant Fritcher and DOES 1-10, continue to trespass on the assignment.
21 Recently, Defendants began to place old vehicles, trash and junk on the property, without the
22 permission of Assignee, Leonard Watterson. Watterson is concerned that the property is
23 currently subject to waste.

24 //

1 18. Plaintiff Watterson, on numerous occasions, has informed Defendants of their
2 trespass. Watterson has taken his concerns to the Big Pine Tribe and Board, who unequivocally
3 have determined Plaintiff is the sole assignee of the Allotment. Unfortunately, neither the Tribe
4 or the Owens Board, have a Court. Hence, Plaintiff prays to the District Court for assistance as
5 the allotment assigned to Plaintiff is Indian trust lands.
6

7 **FIRST CAUSE OF ACTION**

8 **[Federal Statutory Trespass to Allotment Land**
9 **25 C.F.R. part 162.106 (a) and 163. 291**

10 **All Defendants**

11 19. Plaintiff incorporates by reference all allegations contained in Paragraphs 1-18 of
12 this Complaint as thoroughly set forth herein at length.

13 20. Defendants' entry and continued use of the Allotment lands in the absence of the
14 consent of Plaintiff is an illegal interference with the possessory interests of Plaintiff and is
15 therefore in violation of Federal Indian Allotment Trespass Statutes, specifically, 25 C.F.R. part
16 162.106(a) and 163.29.

17 21. As a direct and proximate cause of Defendants' continuing trespass, Plaintiff has
18 suffered damages in an amount to be determined at trial. Further, as a direct result of the trespass,
19 Plaintiff is entitled to injunctive relief and or any other equitable relief the court deems just and
20 proper.
21

22 **SECOND CAUSE OF ACTION**

23 **[Common Law Trespass]**

24 **All Defendants**

25 22. Plaintiff's incorporate by reference all allegations contained in Paragraphs 1-21 of
26 this Complaint as though fully set forth herein at length.
27

23. Defendants' illegal entry and continued illegal use of the Allotment in the absence of the consent of Plaintiff is an illegal interference with Plaintiff's possessory interest in the Allotment and is therefore considered a common law Trespass to Land under California law.

24. As a direct and proximate cause of Defendants' continuing trespass, Plaintiff has suffered damages in an amount to be determined at trial. Further, as a direct result of the continuing trespass, Plaintiff is entitled to injunctive relief and or any other equitable relief the court deems just and proper.

THIRD CAUSE OF ACTION

[Nuisance Civil Code § 34811]

All Defendants

25. Plaintiff incorporates by reference all allegations contained in Paragraphs 1-24 of this Complaint as though fully set forth herein at length.

26. Defendants' unreasonable use of the Allotment interferes with the private use and enjoyment of the land by Plaintiff, and as such constitutes a nuisance under California Civil Code, section 3481.

27. As a direct and proximate cause of Defendant's continuing nuisance, Plaintiff has suffered damages in an amount to be determined at trial. Further, as a direct result of the continuing Nuisance, Plaintiff is entitled to injunctive relief and or any other equitable relief the court deems just and proper.

FOURTH CAUSE OF ACTION

[CONVERSION]

All Defendants

28. Plaintiff incorporates by reference all allegations contained in Paragraphs 1-27 of this Complaint as though fully set forth herein at length.

29. Plaintiff alleges that at all times she had a right to possess the assignment lands and that Defendants wrongfully interfered with Plaintiff's right to possess the lands, by occupying the

lands, placing personal items and trash on the lands including old vehicles and or converting a portion of the land to their own wrongful uses.

30. Defendants prevented Plaintiff from having the right to possess the Allotment and Plaintiff did not consent to Defendants' wrongful possession. Plaintiff has demanded they vacate the premises and pay damages for their unlawful use.

31. As a result of Defendants' wrongful conversion of the Allotment, Plaintiff suffered harm, in an amount to be determined at trial, Defendants being a substantial cause of Plaintiff's harm.

CLAIM FOR RELIEF
(Declaratory Relief -28 U.S.C. §2201)

32. Plaintiff incorporates by reference and re-avers each and every paragraph 1-31 above.

33. An actual and substantial controversy exists between Plaintiff and Defendant concerning the possession of the land and the proper assignee over the land. Plaintiff has provided evidence of his possessory interest in the assignment, while Defendants continue to trespass upon the assignment committing waste.

34. An actual and substantial controversy exists between the parties concerning their substantive legal rights and duties. Plaintiff contends that as the land is in trust, under the governance of the Land Ordinance and that he retains the rights and privileges over the use of the land and requests the Court issue a declaratory judgment to that effect.

35. Therefore declaratory relief is appropriate under 28 U.S.C. §2201 et seq.

//

PRAYER FOR RELIEF

Wherefore Plaintiff prays for judgment as follows:

- (a) For a declaration that the lands at issue are Indian trust lands, presently held in trust with the United States;
- (b) For a declaration that the lands at issue are subject to the terms and conditions of the Owens Valley Land Ordinance;
- (c) That both the Lone Pine Tribe and the Ordinance Board, have authorized Plaintiff as the sole assignee of assignment #28;
- (d) For an order acknowledging Plaintiff's possessory interest as decided by the Board;
- (e) For an order of Ejectment of Defendants from the assignment;
- (f) For an order for all reasonable costs, expenses, attorney's fees incurred as a result of this action;
- (g) For costs of suit herein;
- (h) For such other relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 (b), Plaintiff requests a jury trial of all issues triable of right by a jury.

Dated: July 31, 2017

DURAN LAW OFFICE

By: /s/ Jack Duran

JACK DURAN

duranlaw@yahoo.com

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COMPLAINT FOR STATUTORY TRESPASS, COMMON LAW TRESPASS, NUISANCE
CONVERSION, DECLARATORY RELIEF AND REQUEST FOR JURY TRIAL

A

ORIGINAL

LONE PINE PAIUTE/SHOSHONE INDIAN RESERVATION
MINUTES OF A REGULAR GENERAL COUNCIL MEETING

JUNE 3, 1987

The Regular Meeting of the Lone Pine Paiute/Shoshone Reservation General Council was called to order by Chair Neddeen Naylor, at 7:09 p.m., at which time a quorum was established.

MINUTES OF MAY 6, 1987: MOTION to Accept by Nona Zucco with correction that the Election Committee people are: Nona Zucco, Irene Button, and Ruth Buff, Seconded by Dale Newell, with 5 Abstentions. MOTION CARRIED.

TREASURER'S REPORT FOR MAY 1987: MOTION to Accept by Irene Button, Seconded by Alice Naylor. MOTION CARRIED.

ELECTION RESULTS:

CHAIRPERSON: Neddeen Naylor with 49 votes

VICE-CHAIR: Leslie Button with 49 votes

SECRETARY: Esther Checo with 57 votes

TREASURER: Mary Wuester with 57 votes

TRUSTEE: Irene Button with 42 votes

PRISON ISSUE: 34 votes Against, and 32 votes For: Chair stated that at the next Tribal Meeting to have a Resolution Opposing the Prison.

RESOLUTIONS:

18-87 Youth work Learn - MOTION to Accept by Nona Zucco, Seconded by Irene Button, with 37 For, 0 Opposing, and 0 Abstentions. MOTION CARRIED.

19-87 Fire Protection - MOTION to Accept by Louise Zucco, Seconded by Effie Hackett, with 39 For, 0 Opposing, and 0 Abstentions. MOTION CARRIED.

20-87 93/638 Training & Technical Assistance Request - MOTION to Accept by Dale Newell, Seconded by Sandi Yonge, with 38 For, 0 Opposing, and 0 Abstentions. MOTION CARRIED.

21-87 Assignment for Steward Martin David 15-A, 1.44 Acres - MOTION to Accept by Nona Zucco, at this time questions of Steward's enrollment with his Father's Reservation, and what about a right-of-way to his assignment. Is Kathy also on her Father's, Ruth Buff stated she was not. Nona Zucco withdrew motion. MOTION by Irene Button to TABLE Steward Martin David, and Kathy Miller's Assignments, until the next Tribal Meeting to get more information on this. MOTION CARRIED.

22-87 Assignment for Robert Lee Zucco 14-C, 140'x 560', 1.44 - MOTION to Accept by Dorothy Joseph, Seconded by Albert Zucco, with 25 For, 12 Opposing, and 0 Abstentions. MOTION CARRIED.

23-87 Assignment for Tracy L. Poncho 43-A, 1 Acre - MOTION to Accept by Louise Zucco, Seconded by Aurelia Archuleta, with 35 For, 0 Opposing, and 1 Abstentions. MOTION CARRIED.

24-87 Assignment for Kathy Shaw Miller for 15-B, 1.44 Acres - SEE RESOLUTION 21-87.

EXHIBIT A

ORIGINAL

3

- 25-87 Assignment for Kenneth Charles Gilmore #16, 1 Lot - MOTION to Accept by Esther Fath, Seconded by Mary Hunter, with 30 For, 1 Opposing, and 1 Abstentions. MOTION CARRIED.
- 26-87 FY 88 P.L. 93-638 - MOTION to Accept by Louise Zucco, Seconded by Nona Zucco, with 30 For, 0 Opposing, and 0 Abstentions. MOTION CARRIED.
- 27-87 Request for Assistance from the United Indian development Association (U.I.D.A.) - MOTION to Accept by Louise Zucco, Seconded by Dale Newell, with 39 For, 0 Opposing, and 0 Abstentions. MOTION CARRIED.

NEW BUSINESS: NONE

OLD BUSINESS: Leonard Watterson's Land Dispute - MOTION by Dorothy Joseph to TABLE, because Madge Miller was advised to seek an attorney, Seconded by Nona Zucco, with 11 For, 25 Opposing, and 0 Abstentions. MOTION DIED.

Chair then read a section of the 62 Ordinance pertaining to the death of assignee. As a solution the Chair then suggested to split the Assignments, Consensus of the Council not to. MOTION by Thelma Gilmore to go by the 62 Ordinance, Seconded by Effie Hackett, at this time the Chair stated this Motion would have to be more clear, because this Motion would give the Assignment to Leonard's Grandmother and not to Leonard. Chair then stated that the Tribe had given Pete Thomas 1 Acre. MOTION by Roger Button for Leonard Watterson to have the Original Assignment which consisted of 3 Acres, Seconded by Florence Gockley, with 27 For, 0 Opposing, and 8 Abstentions. MOTION CARRIED. Chair stated we will inform the BIA of this decision.

Leonard requested for a surveyer to see just how many acres there are. Chair stated that the BIA does have monies for surveying and we should request to BIA for surveyin and also other portions need to be done.

REPORTS: Administrator - Problem: Contractors liscense to Lyle Spoonhunter from the BIA does not exist. A BIA number to get a contractors liscense is not a contract. Only one Indian firm, cannot put it out to all Indian Bid. Dale then suggested to request I.R.S. to have the contractors submit all their core crew submissions and award to the lowest bid, and to start the new waterline, since the bids are already in. Should be finished by next month. MOTION for Dale to write a letter to Norm Fairbanks to go ahead with the bid, by Sandi Yonge, Seconded by Louise Zucco. MOTION CARRIED. Dale stated this letter will be sent out tomorrow.

There are LIHEAP applications at the Tribal Office, can add water to this if change Lone Pine Water Fund to Lone Pine Utility. Working on the 638 Grant.

HIGH SIERRA CORPORATION - Bookkeeping problems in which Resolution we passed tonight will help take care of the problem. There are still some questions on the Tax Cards that were issued and Dale will clearigy this: Cards were issued because we are still in litagation over the taxes, CILS suggested the Tax Cards to used, because we might be observed by the I.R.S., and if we do not use the cards and adhere to, we can lose our Tax Status, because we are deriving revenue from this Tax Ordinance. Spouses who are not a Tribal member cannot use these cards. Children under 18 yrs need not use parents cards, and should be re-registered and issued their own cards. Brad is a acting agent for the Tribe and can use the Card for the Center, but not for himself.

EDUCATION: Dinner has been postponed until July.

EXHIBIT A

4
ORIGINAL

TRUSTEE - Application number for Lone Pine still waiting, Big Pine has done theirs and Bishop will do theirs. Trying to get a hold of Mr. Babby of the pro & cons of dissolving the Owens Valley Board. Had called Mr. Babby and he will send a letter to hold a General Meeting for everyone.

HEALTH - Meeting in Big Pine. Trying to get the new building built in Camp Antelope and waiting for OK on the land and the money is there. Resolved a dispute over the ownership of the building and of the land. Tomorrow a meeting up in Bishop and people from the I.H.S. and Mr. Hardwood will be there. Trying to get a Dr. Woo Ming out of I.H.S., because Traditional Health tried to get monies for support for the Traditional Health, and Dr. Woo Ming stated we cant't fund Religions and VooDoos, because of Dr. Woo Ming Traditional Health did not get any monies. Also, Neddeen went to a BIA Advisory Meeting and Neddeen motioned to pass under protest the BIA Budget, or we would not get any monies that LPIR would apply for, but did not pass the narrative. This was for only the BIA's salary. Velma Jones is our Representative for the Owens Valley, and Neddeen is the Alternate.

CIMC - NO REPORT

HOUSING - A National Housing Conference in Reno 14th-18th. Closing date for new applications for next phase of houses is June 15th. Possiblity of a next phase, yes for Lone Pine, but for the rest they have no more room for sewer. Apply for low rent apartments for a small amount which tribal members will be first then non-members. This will go where our mobile home park was to be.

MOTION to Adjourn by Dale Newell, Seconded by Mary Hunter. MOTION CARRIED.
Adjournment at 8:19 p.m.

EXHIBIT A

B

①

**DECLARATION
BEFORE THE OWENS VALLEY
BOARD OF TRUSTEES**

ORIGINAL

IN THE MATTER OF THE APPLICATION)
OF LEONARD WATTERSON FOR THE)
CONFIRMATION OF AN ASSIGNMENT)
ON THE LONE PINE RESERVATION)

DECLARATION OF NEDDEEN
NAYLOR, CERTIFYING
JUNE 3, 1987, MINUTES
OF MEETING OF GENERAL
COUNCIL OF LONE PINE
PAIUTE/SHOSHONE INDIAN
RESERVATION

I, NEDDEEN NAYLOR declare:

1. My name is Neddeen Naylor and I reside on Lone Pine Paiute/ Shoshone Indian Reservation in Inyo County, California.

2 On June 3, 1987, I was the Tribal Chairperson of Lone Pine Paiute/ Shoshone Indian Reservation, and the Chairperson of the tribe's General Council.

3. I do hereby certify that on June 3, 1987, at a Regular Meeting of the Lone Pine Paiute/ Shoshone Indian Reservation General Council, at which time a quorum was established, the following action was taken:

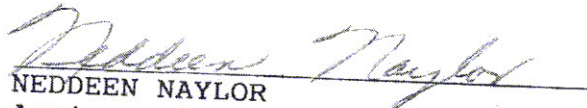
"MOTION by Roger Button for Leonard Watterson to have the Original Assignment which consisted of 3 acres, Seconded by Florence Gockely, with 27 For, 0 Opposing, and 8 Abstentions. MOTION CARRIED. "

4. I do hereby further certify that a true copy of said minutes, entitled "LONE PINE PAIUTE/SHOSHONE INDIAN RESERVATION MINUTES OF A REGULAR GENERAL COUNCIL MEETING JUNE 3, 1987", consisting of three pages, are attached to this declaration, Marked Exhibit A, and incorporated herein by this reference.

5. I have personal knowledge of the foregoing facts, and if called as a witness I can and will competently testify to them under oath.

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

Executed on April 14, 1993 at Lone Pine Reservation.


NEDDEEN NAYLOR
Assignment No. 21
Lone Pine Reservation