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LEONARD WATTERSON

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
(FRESNO DIVISION)**

**LEONARD WATTERSON,**

Plaintiff,

v.

**JULIE FRITCHER AND DOES 1-10,**

Defendants

**Case No. 1:17-cv-01020-DAD-JLT**

**Assigned to Hon. Dale A. Drozd  
Courtroom: 1**

**NOTICE OF MOTION AND  
MOTION FOR SUMMARY  
JUDGMENT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
LAW IN SUPPORT THEREOF**

Date: July 3, 2018  
Time: 9:30 a.m.  
Courtroom: 1  
Judge: Hon. Dale A. Drozd  
Complaint Filed: July 31, 2017  
Trial Date: November 27, 2018

1 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF  
2 RECORD:

3 YOU ARE HEREBY NOTIFIED THAT, pursuant to Federal Rules of Civil  
4 Procedure 56, on July 3, 2018 at 9:30 a.m., at 2500 Tulare Street, Courtroom 1,  
5 Fresno, California, Plaintiff Leonard WATTERSON hereby moves the Court to  
6 grant summary judgment in favor of Plaintiff on the grounds that there is no  
7 genuine issue as to any material fact and that Plaintiff is entitled to judgment as a  
8 matter of law pursuant to his declaratory relief cause of action in his Complaint.  
9 This motion is made on the following grounds:  
10

11 1. Plaintiff was assigned Assignment #28 (a parcel of land), within the  
12 interior boundaries of the Lone Pine Reservation, Lone Pine, California.

13 2. Plaintiff's Assignment was approved by the Owens Valley Board of  
14 Directors and is consistent with the Owens Valley Land Assignment Ordinance of  
15 1962—the document that governs land assignments within the Bishop, Big Pine  
16 and Lone Pine Reservations.

17 3. Defendant Julie FRITCHER was not issued an assignment to Lone  
18 Pine Assignment #28, or any portion thereof, within the Lone Pine Reservation and  
19 is therefore a trespasser on the Board Approved WATTERSON (Plaintiff)  
20 Assignment.

21 This motion is based upon this Notice, the Motion and Memorandum of Points  
22 and Authorities, Statement of Undisputed Facts referenced herein, the documentary  
23 evidence offered through the affidavits, the index of evidence, and on such other  
24 papers, arguments and evidence as may be presented at or prior to the hearing of this  
25 motion.  
26

1 Dated: May 29, 2018

DURAN LAW OFFICE

2  
3  
4 By: */s/ Jack S. Duran*

JACK DURAN  
Attorneys for Plaintiff  
LEONARD WATTERSON

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6  
7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I. INTRODUCTION**

9 This case asks a simple question: “Who was assigned Lone Pine Assignment  
10 #28 and has the right to use and occupy it?” If Plaintiff Leonard Watterson was  
11 issued the Assignment and can demonstrate approval by the Owens Valley Board,  
12 the governing authority over Owens Valley tribal assignments specific to the  
13 Bishop, Big Pine and Lone Pine Indian Tribes, he is entitled to the full use of the  
14 property and Defendant Julie Fritcher should be declared a trespasser.  
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17 As set forth below, the undisputed facts show that the parcel of land known  
18 as Assignment #28 held in federal trust on behalf of the Lone Pine Reservation was  
19 assigned to Plaintiff Watterson because: 1) He was a beneficiary to the  
20 Assignment, 2) pursuant to the 1962 Ordinance, beneficiaries are provided a  
21 “Preference” to Assignments of deceased family members; 3) Plaintiff Watterson  
22 was the grandson of Pete Thomas and was assigned the Assignment in  
23 conformance with the 1962 Ordinance by the Owens Valley Board of Directors; 4)  
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27 - 3 -

28 NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND  
AUTHORITIES IN LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

1:17-CV-01020-DAD-JLT

1 the Lone Pine Tribe ratified the actions of the Owens Valley Board's Assignment #  
2 28, to Plaintiff Watterson; 5) Defendant Julie Fritcher has no Owens Valley Land  
3 Assignment Board approved assignment to Assignment #28; and 6) Fritcher  
4 resides on Assignment #28 and Plaintiff had tried to evict her for years. Fritcher  
5 has no documentary evidence supporting her entitlement to Assignment #28 in  
6 whole or in part. This means the parcel is currently assigned to Plaintiff Watterson  
7 and Defendant Fritcher is a trespasser, subject to eviction and damages. This Court  
8 should therefore grant Plaintiff Watterson's single claim for declaratory relief and  
9 grant him summary judgment.  
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14 **II. ISSUES TO BE DECIDED**

- 15 1. Was Plaintiff Watterson issued Assignment # 28?  
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17 2. Did the Owens Valley Board of Directors approve the Watterson  
18 Assignment?  
19  
20 3. Does Julie Fritcher have any documentary evidence that she was  
21 assigned Assignment # 28, or a portion thereof, and if so, was that Assignment  
22 approved by the Owens Valley Board of Directors?  
23  
24 4. Is Fritcher a trespasser on Assignment # 28?  
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1                   **III.    STATEMENT OF FACTS AND PROCEDURAL HISTORY**

2                   **A.    Procedural History**

3  
4           On July 31, 2017, Plaintiff Leonard Watterson filed this declaratory relief  
5 action pursuant to Title 28, section 2201, subdivision (a) of the United States Code.  
6 (Dkt. # 1.) In it, Plaintiff presents a simple question: Is he the assignee of Lone  
7 Pine Reservation Assignment #28, a property formerly assigned to his deceased  
8 grandfather? And if he is the assignee, does Defendant Julie Fritcher have any  
9 interest in the Watterson Assignment? Plaintiff seeks a declaration from this Court  
10 pursuant to his claim of a possessory interest in the Assignment and that  
11 Defendant, Julie Fritcher, retains no interest and she be declared a trespasser on  
12 federal lands. (Dkt. # 1.)  
13  
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15

16           On September 27, 2017, Defendant, Julie Fritcher, who claims an alleged  
17 interest in the Assignment, answered the Complaint. (Dkt. # 9.)  
18

19                   **B.    Undisputed Material Facts**

20           The subject Lone Pine Rancheria Assignment #28, is located in Inyo  
21 County, California. (L.Watterson Decl., ¶ 3; **Statement of Undisputed Material**  
22 **Fact (“SUF”) 1.**) The Assignment is located within the interior boundaries of the  
23 Lone Pine Reservation. (*Id.*) The Lone Pine Reservation trust lands, including  
24 Assignment 28, was purchased by the federal government for the Lone Pine  
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1 Indians pursuant to a 1939 land exchange between the Department of the Interior  
2 and the City of Los Angeles. (See Ex. B, J. Duran Decl. ¶ 6; **SUF 2.**)  
3

4 After the land exchange, the Lone Pine tribal lands were overseen by the  
5 Owens Valley Indian trustees. The trustees granted Pete Thomas a 1-acre  
6 assignment on or about April 10, 1947. (*Id.* at ¶7; **SUF 3.**). In 1962, the Bishop  
7 Paiute, Big Pine and Lone Pine, federally recognized Indian tribes, entered into a  
8 joint powers agreement whereby their reservation trust lands would be governed by  
9 a joint Board of Directors, pursuant to an “Ordinance Governing Assignments on  
10 the Bishop, Big Pine and Lone Pine Reservations.” (*Id.* at 8; see also Ex. E, Index  
11 of Evidence, 1962 Owens Valley Land Ordinance; **SUF 4.**)  
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15 The 1962 Ordinance sets forth the terms and conditions by which land  
16 assignments are provided to members of the Bishop, Big Pine and Lone Pine  
17 Reservations. (*Id.* at ¶9; **SUF 5.**) The Ordinance was duly adopted by the Bishop,  
18 Big Pine and Lone Pine Indian Tribes on or about April 5, 1962. (*Id.* at 8; **SUF 6.**)  
19 Thereafter, the Owens Board ratified Pete Thomas’ Assignment of Parcel #28 the  
20 same day as the 1962 Ordinance was adopted. (*Id.* at ¶11; **SUF 6.**)  
21  
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23

24 Upon the death of Mr. Thomas, on December 11, 1975, Plaintiff Watterson,  
25 his grandson, received Assignment #28, at the time a one-acre parcel. (L.Watterson  
26 Decl., ¶ 3; **SUF 7.**) The 1962 Ordinance at Section 10.(d) provides for “Preference  
27

1 Rights,” in that beneficiaries are provided a preference to the assignment as against  
2 those qualified non-beneficiary assignees. (Ex.B, J. Duran Decl., ¶15; Ex. E, Index  
3 of Evidence, 1962 Owens Valley Land Ordinance, Section 10(d).)

4  
5 On July 6, 1974, Plaintiff Watterson was designated as the person to receive  
6 Thomas’ Parcel #28 upon his death, by the Owens Valley Board. (L.Watterson  
7 Decl., ¶ 13; see also Ex. F, Index of Evidence; **SUF 8.**) Plaintiff Watterson was the  
8 beneficiary to his grandfather, Pete Thomas’, estate and entitled to the 1962  
9 Ordinance Section 10(d) Assignment preference. (L.Watterson Decl., ¶9; **SUF 9.**)

10  
11 In 1987, Assignment #28 was enlarged from 1 acre to 3 acres via an Owens  
12 Valley Board Directive of June 3, 1987. (See Ex. H, Lone Pine General Council  
13 Meeting Minutes & I, Owens Valley Board of Trustees certification of assignment  
14 to Plaintiff; L.Watterson Decl., ¶ 9-10; **SUF 10.**) The Owens Valley resolution  
15 was approved by the Lone Pine General Council, the governing body of the Tribe,  
16 on the same day. (See Ex. H, minutes Lone Pine General Council, June 3, 1987;  
17 L.Watterson Decl., ¶ Id; **SUF 11.**)

18  
19 Defendant Julie Fritcher has maintained a residence on Assignment #28, for  
20 numerous years. (L.Watterson Decl., ¶12-13; **SUF 12.**) Plaintiff Watterson has  
21 made numerous attempts to evict Fritcher from Assignment #28, to no avail.  
22 (L.Watterson Decl., Id; **SUF 13.**) Fritcher claims an interest in Assignment #28,

1 but has provided no documentary evidence supporting her entitlement to an interest  
2 in the Assignment. (L.Watterson Decl., ¶13; **SUF 14.**) Defendant Fritcher does  
3 not have an Owens Valley Board-approved Assignment to Lone Pine Assignment  
4 #28 or a portion thereof and she is not a beneficiary of Pete Thomas. (L. Watterson  
5 Decl., ¶ 14; **SUF 15.**)  
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7

8 In sum, in the absence of an Owens Valley Board-approved assignment,  
9 Defendant Fritcher has no property interest in Assignment #28 and is a trespasser  
10 on the Watterson-Owens Valley Board-approved, and Lone Pine General Council-  
11 ratified, Assignment Parcel #28.  
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#### 14 **IV. ARGUMENT**

##### 15 **A. Legal Standard for Summary Judgment**

16 Summary judgment is proper where the pleadings and materials demonstrate  
17 “there is no genuine dispute as to any material fact and the movant is entitled to  
18 judgment as a matter of law.” Fed.R.Civ.P. 56(a). A material issue of fact is a  
19 question the trier of fact must answer to determine the rights of the parties under the  
20 applicable substantive law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248  
21 (1986). A dispute is only genuine however “if the evidence is such that a reasonable  
22 jury could return a verdict for the nonmoving party.” *Id.* at 248.  
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1 For summary judgment, the moving party bears “the initial responsibility of  
2 informing the district court of the basis for its motion.” *Celotex Corp. v. Catrett*, 477  
3 U.S. 317, 323 (1986). To satisfy this burden, the moving party must demonstrate that  
4 no genuine issue of material fact exists for trial. *Id.* at 322. However, the moving  
5 party is not required to negate those portions of the non-moving party's claim on  
6 which the non-moving party bears the burden of proof. *Id.* at 323. Rather, to  
7 withstand a motion for summary judgment, the non-movant must show that there are  
8 genuine factual issues which can only be resolved by the trier of fact. *Reese v.*  
9 *Jefferson Sch. Dist. No. 14J*, 208 F.3d 736, 738 (9th Cir. 2000) (citing Fed.R.Civ.P.  
10 56; *Celotex*, 477 U.S. at 323).

15 The nonmoving party may not rely on the pleadings; it must present evidence of  
16 specific facts creating a genuine issue of material fact. *Nissan Fire Marine Insurance*  
17 *Company v. Fritz*, 210 F.3d 1099, 1103 (9th Cir. 2000). Conclusory allegations as to  
18 ultimate facts are not adequate to defeat summary judgment. *Gibson v. County of*  
19 *Washoe, Nev.*, 290 F.3d 1175, 1180 (9th Cir. 2002). Nor is the Court required “to  
20 scour the record in search of a genuine issue of triable fact,” *Keenan v. Allan*, 91 F.3d  
21 1275, 1279 (9th Cir. 1996), but rather “may limit its review to the documents  
22 submitted for purposes of summary judgment and those parts of the record  
23  
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specifically referenced therein.” *Carmen v. San Francisco Unified Sch. Dist.*, 237 F.3d 1026, 1030 (9th Cir. 2001).

**B. Lone Pine Assignment # 28 was Assigned to Leonard Watterson by the Owens Valley Board**

As outlined above, it is undisputed that Assignment #28 was assigned to Plaintiff Watterson by the Owens Valley Board. Plaintiff possesses a 1962 Ordinance Board-approved Assignment entitling him to a possessory interest in Assignment 28—now a 3-acre parcel. Plaintiff possesses a Lone Pine General Council-approved Resolution, ratifying the actions of the Owens Valley Board of Directors action in granting Plaintiff Watterson the enlarged 3-acre assignment. As such, the Court should issue a declaratory judgment confirming Plaintiff’s assignment to Lone Pine Assignment #28.

**C. Defendant Fritcher Does not Possess a Board-Approved Assignment to Any Part of Assignment 28**

In contrast, Defendant Fritcher does not possess an Owens Valley approved assignment to Lone Pine Assignment #28. She is not entitled to any portion of Assignment #28. Defendant Fritcher has no evidence demonstrating any interest in the Assignment. The Court should therefore grant Plaintiff’s motion for summary judgment and grant his claim for declaratory relief by declaring the subject

1 Assignment #28 was issued to Plaintiff by the Owens Valley Land Ordinance Board  
2 of Directors.

3  
4 Although Fritcher attached a 1984 letter from a Tribe requesting Watterson  
5 change a fence line on the Assignment, this request was rendered moot when  
6 Assignment #28 was enlarged by the Tribe and Owens trustees to three acres on June  
7 3, 1987. (See Ex. H & I, Exhibit List, Lone Pine Meeting Minutes June 3, 1987,  
8 Owens Valley Board Minutes, June 3, 1987). Further, the letter concerns Madge  
9 Miller, not Defendant Fritcher. (*Id.*) Fritcher has no evidence of a legal interest in the  
10 Millers' dispute with Plaintiff Watterson.

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14 **D. Defendant Fritcher is Trespasser on the Watterson**  
15 **Assignment**

16 Fritcher resided on Assignment #28. Plaintiff has tried to evict her for years. In  
17 the absence of any Board Approved Owens Valley Land Assignment to Lone Pine  
18 Assignment #28 or a portion therewith, Defendant Fritcher is a trespasser to the  
19 Watterson Board- approved Assignment. The Court should issue a declaratory  
20 judgment declaring Plaintiff Watterson as the Board-approved assignee of Parcel #28  
21 and to order the eviction of Defendant Fritcher from Assignment #28.  
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23  
24 For the foregoing reasons, this Court should grant Plaintiff's single claim for  
25 declaratory relief and declare that Assignment #28 was assigned to Watterson  
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pursuant to the terms and conditions of the 1962 Ordinance, that Defendant Fritcher has no interest in the Parcel Assignment, and is a trespasser on the Parcel Assignment.

Summary judgment in favor of Plaintiff should be granted.

**V. CONCLUSION**

For the foregoing reasons, summary judgment should be granted in Plaintiff's favor.

Dated: May 29, 2018

DURAN LAW OFFICE

By: /s/ Jack Duran  
Attorneys for Plaintiff  
LEONARD WATTERSON