

TYSON M. LIES
VICTORIA L. FRANCIS
Assistant U.S. Attorneys
U.S. Attorney's Office
2601 2nd Ave. N., Suite 3200
Billings, MT 59101
Phone: (406) 247-4632 – Tyson
Phone: (406) 247-4633 – Victoria
Email: Tyson.lies@usdoj.gov
Email: victoria.francis@usdoj.gov

ATTORNEYS FOR DEFENDANT
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

JAMES LEACHMAN and SETH LEACHMAN, Plaintiff, vs. UNITED STATES OF AMERICA, Defendant.	CV 19-82-GF-BMM UNITED STATES' REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS
--	---

Plaintiffs filed a response brief (Doc. 8) responding to the United States' brief in support of its motion to dismiss. The response brief does not respond to extensive law showing no subject matter jurisdiction or waiver of sovereign

immunity for the claims asserted by Plaintiffs. Plaintiffs alleged that the Tribal Court violated their rights to due process and equal protection as a basis for their complaint. (Doc. 1, ¶ 18-19) The Defendant is the United States. The United States Supreme Court decision in *F.D.I.C. v. Meyer*, 510 U.S. 471, 478, 486 (1994), clearly shows that a constitutional tort claim may not be brought against the United States. Nor do Plaintiffs set forth any law to contradict the many circuit decisions clarifying that there is no waiver of sovereign immunity to sue the United States under 42 U.S.C. § 1983. (Doc. 4, p. 6-9) For these reasons alone the Complaint should be dismissed. But in addition, the suit is also barred for the other reasons set forth by the United States in its brief, including the very strong policy reasons supporting judicial immunity.

For all of the reasons set forth in the United States' opening brief, there is no waiver of sovereign immunity or viable claim against the United States because the Tribal Judge made a decision overturned by the Tribal appellate court. Plaintiffs' oral contract with private parties, at least one of whom was a Tribal member, wherein the Plaintiffs and the private contracting parties had "differing versions of the contract" (Doc. 1-1, p. 2, ¶ 3), do not give rise to a viable suit against the United States based on the decision of a Tribal judge.

///

DATED this 26th day of March, 2020.

KURT G. ALME
United States Attorney

/s/ Victoria L. Francis
Assistant U.S. Attorney
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of March, 2020, a copy of the foregoing document was served on the following person by the following means.

<u>1, 2</u>	CM/ECF
_____	Hand Delivery
_____	U.S. Mail
_____	Overnight Delivery Service
_____	Fax
_____	E-Mail

1. Clerk of Court

2. Timothy M. Bechtold
BECHTOLD LAW FIRM, PLLC
317 East Spruce Street
P.O. Box 7051
Missoula, Montana 59807-7051
(406) 721-1435 – Phone
tim@bechtoldlaw.net
Attorney for Plaintiff

/s/ Victoria L. Francis
Assistant U.S. Attorney
Attorney for Defendant