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ASHEVILLE, N.C.

UNITED STATES DISTRICT COURT

for the

MAR 02 2020

Western District of North CarolinaClerk, U.S. Dist. Court
W. Dist. of N.C.Asheville Division

Case No.

1:20 CV 5

(to be filled in by the Clerk's Office)

April Hedford

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Eastern Band of Cherokee Indians

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

"Amended"

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

April Hedford

Street Address

P.O. Box 2150

City and County

Bryson City Swain County

State and Zip Code

North Carolina 28713

Telephone Number

828-226-8290

E-mail Address

zoetic68@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name
Job or Title (if known)
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address (if known)

Eastern Band of Cherokee Indians
Sovereign Nation
Post Office Box 455, 88 Council House Loop
Cherokee Swain
North Carolina 28719
828-359-7000
www.ebi.com (website)

Defendant No. 2

Name
Job or Title (if known)
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address (if known)

Defendant No. 3

Name
Job or Title (if known)
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address (if known)

Defendant No. 4

Name
Job or Title (if known)
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address (if known)

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

• Indian Civil Rights Act (ICRA) 25 USC §§ 1301-1304
1302 (a) 5

• DUE PROCESS -- INDIAN CIVIL RIGHTS ACT (ICRA) 25 USC § 1302 (a) 8

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) _____, is a citizen of the
State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____. Or is incorporated under the laws of (foreign nation) _____ and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

The Eastern Band of Cherokee Indians invalidated my husband's valid will and took my life estate in the home we shared since 1998. The calculated value of this life estate is \$372,000.00.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

1. My husband, Bill J. Ledford, passed on Oct. 29, 2013, after 13 years of marriage
2. Bill left a will deemed VALID by the state of North Carolina and by the Court of the Eastern Band of the Cherokee Indians (EBCI).
3. In his will, Bill left me a life estate in the home we had shared since 1998. (140 Greybeard Hill, Cherokee, NC 28719.)

IV. Relief

(See Attached)

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I have calculated the value of the life estate as follows:

- Average rental for the same or similar home (140 Greybeard Hill, Cherokee, NC 28719 - 4 bedroom, brick home, one acre): \$1000 per month / \$12000 per year
- Life Expectancy - 51 year old woman: 79 - ie 29 remaining + 3 years since taking, for total of 31 years
- \$1000 per month x 12 months: \$12000.00 per year for 31 years. TOTAL DEMAND: \$372000.

III. Statement of Claim (Continued)

4. On January 12, 2017, EBCI Council invalidated my husband's will and overturned the ruling in the Court in violation of Tribal law. ** They used Chapter 28 of the Cherokee Code to support their decision, a chapter clearly used only in instances when there is no valid will. **

5. I can show that I did not receive proper Notice of this Hearing.

6. In June of 2017 the EBCI Courts evicted me from my home and did not allow me to present my side of the story.

7. The EBCI have ignored my 4 attempts to settle this matter to avoid going to court.

8. The Cherokee Code allows Council to hear new evidence after a decision has been made. In my case, my new evidence was that I did NOT have another home (contrary to what they were told during the Jan. 12, 2017 hearing – in my absence). Council refused to consider that new evidence.

I believe I can show that I was discriminated against because I am not an enrolled member of the EBCI. Whether that be the case, one of the EBCI's most respected leaders, Bill J. Ledford, was an enrolled member and for the tribe – or anyone -- to change his last wishes is unconscionable.

Conclusion: I do not agree with their decision and realize I cannot get my home back, but I understand that, according to the Indian Civil Rights Act, whenever a tribe takes property from any rightful possessor then compensation for the taking should be paid.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: January 6, 2020

Signature of Plaintiff

Printed Name of Plaintiff

April Ledford
April Ledford

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address