UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MARY NOWLIN, PRO SE THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST Appellant vs. WILLIAM SCOTT BEDFORD RAY H PACE AND SONDRA N PACE HUSBAND AND WIFE, Appellees	)	No. **20-7070**

PRO SE APPELLANT'S REPLY TO APPELLES' RESPONSE FRAP 28/31 (a)

Mary Nowlin, pro se appellant and recognizable named party defendant in the above referenced case moves this Court to affirm my Indian title interests in succession, recognized under federal statute, treaty and U.S. Constitution, affirmed in controlling case law as a property right to – a specific Chickasaw allotment land estate, property in restricted status.

Mary Nowlin 630 Throne Dr.,

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*In accordance with FRAP 28 (c) reply briefs are allowed and this is written to comply with what is required under the rule.

TABLE OF AUTHORITIES

INDEX of Enclosed Supplementation (highlights in accordance to FRAP 10(a)) and where they are located in the Reply Brief:

4. Certified by Bureau of Indian Affairs, Allotment Patent #24746 listing the subject property (surface and all below surface property) connected to Bedford and Pace's filing, listing the name of Susan Brown Chickasaw #2828) - and supplied in the record as part of Rule 201 Motions of Mary Nowlin,(1 pg).....2

5. Joint Status Report, filed as DOC 12, of William Bedford, et.al. (lists Helen Nowlin, as defendant pro se/ Bedford and Pace originally cite $450,000 as the amount in controversy, (3 pgs).....9, 10

6. Email communication between Matt Mickle and Helen Nowlin, dated 8/27/2018, (1 pg).....10

7. (second) Joint Status Report, filed as DOC 74 under Pacewicz's name lists documents to be relied upon (for "title" evidence) are state issued DEEDS – VOID UNDER FEDERAL LAW, subject to the Nowlin Indian encumbrance, (2 pgs).....12

8. Defendant's Status Report, Filed on August 20, 2018 that clearly lays out the federal issues, relevant law and facts, (1 pg).....4, 13

9. Verified Defendant's Reply (28 U.S.C. § 1441 (a)), (2 pgs).....6

10. Verified Motion & Order to Join Parties Rule 19 (a)(2) listing parties to be added, (3 pgs).....19

11. Notice to the Court, filed as DOC 55, highlight pariffs No. 2, 4, (2 pgs)....7,8

12. Defendant's Response to the Court...filed as DOC 89....pariff #1, pariff #3 and

Statement of Facts

It took a year and four months for the Appellees' to bring forth their "quiet title" complaint, and as first to file, refused, with leave of the district court to avoid providing any additional documentation to support their filing or controlling case law on point that supports Bedford and Pace as non-Indians in a cause of action over non-extinguished Indian allotment property, despite having benefited from advance notice they were involved in a federal claim. Mary Nowlin made the District Court aware in the record the default burden of proof is on Bedford and Pace under federal statute (25 U.S.C. § 194) <see Infra pg 4; as reiterated in Motion Rule 60 b, pg 7, DOC # 229> District Court ignored this statute, allowing a false narrative Mary Nowlin had to the burden of proof (not first filer) and Mary Nowlin objected. Mary Nowlin met her burden of proof. It is undeniable the subject property at issue is under federal jurisdiction which was plead as facts by Bedford and Pace as first filers and did cause the district court to retain the case.

Certificate of Designated Lands Exempt from Taxation, dated May 29, 1930 <Index, Doc #1a>, identifying the legal land description of the Indian property at issue, and as identified in Bedford and Pace complaint, proves that at the time of Susan Brown's death – 02-28-1927 and died with restricted Indian allotment (40 acre homestead) and it remained restricted even after her death (readily available in the Marshall County records office). Certificate is filed as Exhibit with Reply to

Plaintiffs (regarding Mary Nowlin's Motion to Mandatory Joinder, dated during April, 2019). Appellees' didn't object to the validity of the document, which combined with the U.S. government issued allotment patent #24746 <Index, Doc #4> establishes from the record the Indian status of the subject property at issue.

The purpose of appeal was to focus on the errors of the District Court and those are: 1) appearing to grant non-Indians standing in a non-extinguished Indian allotment (a threshold issue to be made based on the initial pleading) and 2) allowing state based standard of law to apply to the same subject Indian allotment, clearly under federal jurisdiction and in conflict with controlling federal case law cited in the record by Mary Nowlin. The Appellate Court should find one or both of these errors on appeal and reverse the District Court.

By filing this appeal, Mary Nowlin expects that the Circuit Court will not allow these same mistakes as discussed in Issue #3 <Opening brief, pg 4> and will reverse the district court in its application of state law / statutes as the standard of law that applied in all its orders and final judgement in favor of non-Indians in regard to the subject Indian property at issue. This is error of law and abuse of discretion to apply the wrong standard of law (state versus federal) <Opening Brief, pg 5> This error lead the district court to then appear to give what can be construed as "standing" to non-Indians while not deciding it on the merits. The district court declined despite numerous objections, Motions under 60b and (three)

Motions for Protection from abusive discovery. Denied or ignored by the district court.

Appellees only have and want to interject non-essential issues (e.g a deposition using public documents) or the district court order which allowed it, that upon proper consideration of this Court will be determined as void on appeal. The district court order was rendered under erroneous standard of law as appellees base their claim <infra, pg 9 – 16> It was the district court that twice refused to be on the record regarding standing of non-Indians related to non-extinguished Indian allotment property. Mary Nowlin asks the Court on Appeal to still read the information in the Motion to Vacate and attached exhibits for the overall appeal even if the Court should decline to vacate its decision granting supplementation of my appeal record.

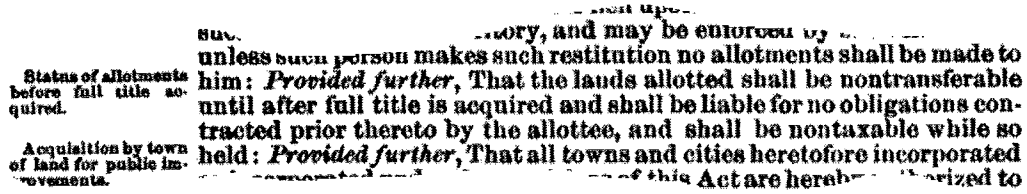
In the Motion to Vacate, Mary Nowlin addresses how the Circuit Court by granting what otherwise might be a "procedural issue" to supplement the record (Circuit cited FRAP 27 (b)) provides specific reasons why the supplementation violates, and is non-essential the purpose of my appeal (Mary Nowlin relied on FRAP 10.4) <Motion to Vacate, pg 3> Furthermore, "without standing established on the merits in the district court's record, the 10th circuit is also without authority to grant Bedford and Pace motions or relief." <Vacate, pg 4, starting 6 lines at

bottom> This point should be construed under FRAP Rule 27 (c), which states in part: "[t]hat only (what) the court may act on any motion or class of motions."

It is established as fact in the record or not reasonably subject to dispute, and will be affirmed on appeal, the following: 1) the burden of proof is default and lies with non-Indians when the Indian heir, as is in this case has made out a presumption of ownership interest in the subject Indian property, pursuant to 25 U.S.C. § 194; 2) the matter before this Court is the subject property and homestead belonging to Mary Nowlin's ancestor, Susan Brown (Chickasaw #2828); 3) the subject property was held by the United States of America in trust for Susan Brown at the time of Susan Brown's death, nunc pro tunc February 28, 1927 and remained subject to restrictions; 4) the Indian title and interest was then vested in trust to her surviving minor son, Raymond Nowlin (1/2 or more Indian by blood) as provisioned in the federal trust relationship and pursuant to the right to inherit. Property was never out of patent status and no valid deed issued because the federal restrictions were violated and not removed (so by law no valid conveyance occurred) (See Index, Defendant's Status Report, DOC 8). <Infra, pg 5-7> Appellees' continue to object in response brief but without facts to the contrary is baseless assertions.

In 1898, the Curtis Act extended all provisions of the General Allotment Act to Indian Territory (a.k.a. Eastern Half of current Okla) **General Allotment Act,**

Act of Feb. 8, 1887 (24 Stat. 388, ch. 119, 25 USCA 331) Curtis Act of June 28, 1898 (fifty-five Congressional, Sess II, ch 517 pg 498) pertinent part reads:



Status of allotments before full title acquired.

Acquisition by town of land for public improvements.

unless such person makes such restitution no allotments shall be made to him: *Provided further*, That the lands allotted shall be nontransferable until after full title is acquired and shall be liable for no obligations contracted prior thereto by the allottee, and shall be nontaxable while so held: *Provided further*, That all towns and cities heretofore incorporated

Section 5 of the General Allotment Act, once expanded to cover Eastern half to prepare "for statehood" is particularly applicable to the specific facts in this case:

"Provides that after an Indian person is allotted land, the United States will hold the land "in trust for the sole use and benefit of the Indian" (or his heirs if the Indian landowner dies) for a period of 25 years. (Land held in trust by the United States government cannot be sold or in any way alienated by the Indian landowner, since the United States government considers the underlying ownership of the land held by itself and not the tribe"[1] or the individual Indian. <See Opening Brief, pg 10>

This requirement that while the federal government held legal title, there was NO transfer of Indian lands, unless or UNTIL restrictions or the government's legal title was removed as a matter of the passage of 25 years, a point reiterated again in 1906 (Fifty-Ninth Congress, Sess I, ch 1876 pg 144 – See Index, Doc 17 on pg 144).[2]

As pointed out in the record repeatedly, the 25 year exclusive trust period didn't expire until April 26, 1931. <Opening brief, pg 10> When Susan Brown

[1] Thorough analysis is available at https://iltf.org/land-issues/history/

[2] An additional 25 year trust period was renewed as an act of Congress but ½ or more by Indian blood still restricted class and property if the property was inherited as restricted. See Opening Brief FN 38, pg 20.

died (02-28-1927) the subject Indian property and designated homestead (homestead certificate is in the record and not objected to) was in restricted status. It means no fee existed and no deed issued (indicating that the restrictions were still in place on the title). Any attempt to fraudulently alter the restrictions resulted in VOID CONVEYANCES, as repeated in the record by Mary Nowlin numerous times. Removal of the restrictions might have been otherwise at the time of Susan Brown's death, **EXCEPT FOR THE FACT** that §9 of Act of May 27, 1908 supplements and is why it was added into the record by Mary Nowlin <See pertinent reproduction of what it says, page 12, Opening Brief>. The homestead was inalienable also because Susan Brown had a minor child, making Raymond Nowlin an orphan when Susan Brown died (and the only line to survive to enforce the federal trust obligations and fiduciary duty). It is the survival of the Brown Nowlin line that prevented removal of the restrictions at the time Susan Brown died on 02-28-1927 (and was the original allottee).

Bottom line for the Appellate Court: the first attempt to transfer the subject Indian property at issue in 1930 was void (void title) because the attempt to illegally convert the Indian property occurred during the 25 year trust period.[3] <See verified Defendant's reply, filed on or about Aug 21, 2018, Index DOC #9–

[3] Based on the federal law, the only thing the local district court could have done was to do a judicial determination of heirship over the estate of Susan Brown and that was the one thing it refused to do during the illegal probate. The judicial determination of heirship was accomplished on March 09, 2011 to formally close Susan Brown's estate, and ancestor of affirmed heir Mary Nowlin.

particularly pariffs 4, 5 pg 2> It means the acts of fraud violating the designated 25 year trust moratorium to maximally protect Indian lands / property from greedy individuals, set aside and allotted to individual Indians is the legal construction today – as it was then to be illegal acts against the "rights of the sovereign" and construed to be less a violation against individual rights of the Indian. < See Opening Brief, pg 10> Mary Nowlin has in fact a claim that aligns itself clearly with the integrity of the federal government as a sovereign entity. No one along the "chain of title" received good title as a MATTER OF LAW. Mary Nowlin's right to bring her claim to enforce the federal trust is not abrogated and in fact, is upheld by acts of Congress.

Therefore, Mary Nowlin only had to prove, and did PROVE two facts to prevail under Summary Judgement: a) Nowlin Indian land estate is designated non-extinguished Indian land and / because b) illegal acts to convert the land occurred during the 25 year trust period.[4] <See Notice to the Court, Index DOC #11 – particularly pariff 2> Mary Nowlin is not asking for the land to be returned. In fact, Mary Nowlin is seeking redress and remedy in the form of FMV for the property (surface/subsurface) and rents due for trespass to compensate for income losses <*U.S. v Santa Fe Pacific R. Co.* 314 US 339 (1941), Index> It is then the affirmed heir enforcing these compensatory rights who will then voluntarily relinquish title

[4] If the Secretary of Interior had approved the transfer then it might have been okay. Yet, the first attempt to convert/transfer the subject property is more important that it occurred within the 25 year strict restriction period set by the federal government. See Mary Nowlin's Brief on the merits (DOC #110).

rights in the subject property at issue (not by coercion or illegally). It is not just fair, legally required. Since, this went unaddressed at the District Court, the Appellate Court can affirm on appeal.

Non-Indians, Bedford and Pace had to address the two facts established and just presented on page 7 to have legal standing in the subject property. Without having done so, it means Mary Nowlin's title and interest in the subject property at issue is still legally intact <Id. Index Doc #11, Pariff 4, pg 2> After over two years, the sad truth is Bedford and Pace was allowed by the District Court to avoid the facts they plead; to avoid facts Mary Nowlin placed in the court record. The other sad part is Bedford and Pace failed to address the heart of the issue to meet their burden of proof required under federal statute, and barred on appeal do so now.

Instead, Bedford and Pace INSISTED in wasting everyone's time to continue vexatious litigation (undeniably enabled by the District Court). The District Court allowed Bedford and Pace through legal representation to unduly focus on Mary Nowlin instead of what they needed to prove to meet their evidentiary burden. Mary Nowlin merely brought her legally cognizable claim – and she knew it was a legal / lawful claim.

"Evidence shows I am the legal owner (through right of Indian heirship prescribed by federal authority), beneficiary of a federal trust relationship with the sovereign and to trigger the equitable arm of the federal district court, it was necessary only to show the right to possession."

<Index, Doc #12 (DOC #89), pg 2>

CONTROLLING CASE LAW

Controlling cases relied in Mary Nowlin's brief on the merits (DOC #110 in the record, starting pg 4) include: *Ewert v Bluejacket*, 259 US 129 (1922), held that sale of minor Indian heirs property was invalid while properly regarding the Okla statute of limitations is inapplicable. Neither can doctrine of laches have application to give vitality to a void deed and to bar the rights of Indian wards [heirs] in land that was subject to statutory restrictions. *In re Micco's Estate*, 59 F Supp 434,438 (E.D. Okla 1945) held that probate court of Okla were authorized under 25 U.S.C 375 to determine heirship of deceased members of 5 Tribes but not to try land titles.

PROOF DISTRICT COURT APPLIED THE STATE LAW ARGUMENTS APPELLEES' RELIED TO CONDEMN FEDERAL INDIAN PROPERTY

(rendering orders, decisions void due to application of the wrong standard of law and abuse of discretion)

It all starts in Mickle's version of the Joint Status report, filed in the record as DOC #12 (Index Doc #5) to erroneously assert or imply a state based claim (squatter's rights) applies when it doesn't apply (*McGirt* holds that only acts of Congress can alter Indian rights and title to specific property / lands). <Id. Index DOC #5, pg 1> Federal district court accepted the subject matter (in rem)

jurisdiction over the subject property recognizing the property itself is FEDERAL while allowing state based arguments and denying Mary Nowlin's objections or requests for discovery protection. <See Mary Nowlin's Motion to Vacate (as evidence) pg 6 reference to DOC #84; Transcript copy of 02-11-2020> States do not have jurisdiction over tribal land or property.

Mickle further refers to HELEN NOWLIN as defendant appearing pro se. <Index, Doc #5.> Mickle knew about Helen Nowlin's personal interest in the subject property because 2 of 3 documents and facts therein, he rested Bedford and Pace's complaint upon, are signed by Helen Nowlin. In fact, email correspondence between Helen Nowlin and Mickle reinforces that he recognized Helen Nowlin as a private individual <Index, Doc # 6> Through Mickle's admission or of his earliest impression, treating Helen Nowlin as a "defendant pro se" was binding and accepted by Helen Nowlin because she acted upon it and continued to act in her individual capacity until only later Mickle "convinced" the District Court to claim "Helen Nowlin is a stranger" for dubious reasons to create a makeshift (shady) excuse to indirectly attack the removal of the Bedford and Pace petition to the federal court (and to the proper jurisdiction). Pacewicz refers to DOC #12 later and the joint effort by Mickle and Helen Nowlin in creating status reports while continuing, despite protest by Mary Nowlin to peddle the false narrative to presumably benefit his clients.[5] Theirs was not a direct attack.

Helen Nowlin could act as agent of Mary Nowlin, since both have interests supported in documents Bedford and Pace presented in their petition. The issue of a private contract between Helen Nowlin and Mary Nowlin (Notary acknowledged by Danny Barnes) was not a matter worthy of the court's time, and certainly not something that could prove Bedford and Pace have legal or legally protected rights in subject Indian real property.

There was no formal objection submitted (nothing intended to be shared with the district court) and no motion was filed in fact to address purported procedural concerns regarding removal otherwise waived under 1447 (c) because to do so required an honest concern. It was an effort to do what it intended: to intentionally mislead the District Court. Motions ripe for default judgement in Mary Nowlin's favor were stricken by the District Court March, 2019 based on this factual misrepresentation.[6] This and other material factual misrepresentations are subject matter and why Mary Nowlin supplied the District Court (4) Motions for Mandatory Judicial Notices with the necessary documentation (using excerpts from the district court's own record).....that the court somehow evaded by wrapping them into the 02-11-2020 hearing the district court called "to understand the issues."[7] These and other "undone" issues should be picked up on appeal.

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[5] This is fettered out in one of Mary Nowlin's Motions for Mandatory Judicial Notice under Rule 201.

[6] Two Motions for Mandatory Joinder are in the court record. Rule 19 allows a court to correct deficient pleadings to add necessary parties. First American Title Company made an appearance on 02-11-2020 subject to motion for the district court to add – District Court denied without citing a reason or reasons based on federal law, or ignored.

Then Mickle, after erroneously asserting (perhaps initially caused by a lack of due diligence) a restricted Indian property under the United States of America in trust for Susan Brown (restricted at the time of her death and remains restricted nunc pro tunc Feb 28, 1927 for the benefit of her affirmed heir) is under state jurisdiction (*McGirt* holds otherwise), Mickle then states the only "discovery" needed would be to focus on Defendants, or later to be more clear to unduly focus and single out Mary Nowlin as the subject matter. <Id. Page 2> [8] Predatory discovery is "sought not to gather evidence that will help the party seeking discovery to prevail on the merits of this case but to coerce his opposition to settle regardless as to the merits." <Motion to Vacate, pg 7>

This evasion of their burden of proof was continued in Pacewicz's version of Bedford and Pace's status report <Index, DOC # 7> Pacewicz tells the District Court more clearly that the only documents to be relied upon as evidence "as title" are state issued deeds. As repeatedly discussed by Mary Nowlin in the record, the deeds are VOID under federal law. <Id.> The only jurisdiction to enforce federal statutes is a federal court, not state and why three (3) motions for discovery

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[7] District Court thus violated Rule 201 (e) by it calling the hearing, not the non-moving party or Bedford and Pace.
[8] To the Appeal's Court, regarding Mickle's proposed discovery plan as a plan and undue focus on "defendants" is clearly evading the non-Indians burden of proof required under federal statute under 25 U.S.C. § 194 (failed to show that the federal government consented and the strict restrictions that made the subject Indian property inalienable had fallen outside the 25 year trust period).

protection exists in the record (all denied or basically, not considered). The record is replete also with objections from Mary Nowlin on specific or related issues.

Mary Nowlin's brief on merits of her claim(s), DOC #110, and should be part of the pro se appeal record created by the Court (under FRAP 10.1 and 10.4) is entered to rebut the District Court's claim it didn't "understand." DOC #110 was submitted into the record to AGAIN lay the federal law and relevant facts for the District Court. The federal law and facts relevant to the subject matter and Indian property was already filed on August 20, 2018 in Defendant's Status Report <Index, Doc #8> and is the reason, along with the facts plead by Bedford and Pace which made it clear to the federal District Court it has subject matter jurisdiction. Later Mary Nowlin found the District Court understood in its 2007 holding in *Murphy v Sirmon* that its focus and attention should have been on the validity and point of transfer to non-Indians <Opening Brief, pg 24> NOT ON MARY NOWLIN. Mary Nowlin is a victim. <Index, Doc #12,pg 2> Mary Nowlin did focus all her documentation on the point of transfer to non-Indians and tried repeatedly to focus the District Court on its own analysis in *Sirmon*.

However, the masquerade continued. Bedford and Pace "continued to assert or claim the subject property (as described in Defendant's Status Report, Index, Doc #8) is private land subject to Okla state law." <Defendant's Response to the Court, Index, Doc #12 or DOC 89 in the record> The District Court NEVER

required them to address the federal nature of the Indian land that the facts they plead in their petition <Defendant's Response to the Court, Index, Doc #12 or DOC 89 at the district level> Mary Nowlin filed THREE Motions for Protection to demand Bedford and Pace get to the business of federal statutes…and to get the train to leave the terminal on the correct tracks. The District Court turned a deaf ear.

Pacewicz writes: "Although Art III standing is a question of FEDERAL LAW" state law may create the asserted legal interest." <Plaintiffs' Response, Index Doc # 13, pg 8> Then he relies on cases for judicial authority that aren't about Indian property under federal jurisdiction and property clearly carved out by Okla Enabling Act and state Constitution! <Opening Brief, pg 21> If the right is federal then most certainly the remedy must be federal[9] (it boils down to jurisdiction…and when it comes to Indian property – Indian title and interest, it is exclusively under federal jurisdiction (preposterous to assert otherwise), and carved out as exclusive to the federal government by the U.S. Constitution.

As if it couldn't get any worse, what was an assumption earlier in the record was affirmed in Plaintiffs' Response to Defendant's Motion for Dismissal <Index, Doc #13> Pacewicz comes right out and presents: "PLAINTIFFS HAVE STANDING OKLAHOMA'S QUIET TITLE STATUTE PROVIDES

[9] Following the holding in Guaranty Trust Co. v York 326 U.S. 99 (1945)

PLAINTIFFS STANDING" <Id. at 8> In rebuttal and objection to these baseless claims that the subject property at issue is federal but state law still applies (without consent of the sovereign is an impossibility), Mary Nowlin stated: "when allotment lands appear to have been sold or transferred the procedures relevant to the allottee and restricted Indian heirs must be followed to convey good title.[10]" <Index, Doc #14> Mary Nowlin further protested that those procedures under federal law were fraudulently ignored. *Id.* As it turns out that even the passage of time allows Raymond Nowlin's legal rights and Indian interest in the subject property at issue to be brought now because federal sovereign status is never ending (in order to be called a sovereign) and must be upheld. Sovereign rights gave the Indian rights, and also created the state of Okla. Justice Gorsuch in *McGirt* explained that: "A state exercises jurisdiction over Native Americans with such persistence that the practice seems normal." <Defendant Reply, Index, Doc # 15> Well, it isn't normal and a point of contention as the district court would apply state "quiet title" statute to provide Bedford and Pace rights in VOID DEEDS that are void as a matter of federal law. That is an idiotic proposition and one that can't be enforced or allowed to occur upon review on appeal. The District Court continued to allow the envelope to be stuffed with non-essential information and procedure despite repeated objections from Mary Nowlin.

[10] In other words, any restriction that bound the allottee or her affirmed heir was required of third parties.

Allotment patent like letters patent is unassailable, issued from the sovereign government. *Sanford v Sanford*, 139 US 642 (1891), Index, Update to Letters Patent, page 3. In *Sanford* it was held, excerpt:

"….its conclusion has been reached from a misconstruction of the law applicable to the case, and it has thus denied to a party rights which upon a correct construction world have been conceded to him, or where misrepresentation and fraud have been practiced necessarily affecting its judgment, **a court of equity in a proper proceeding will interfere and control its determination so as to secure the just rights of the party injuriously affected**…"

Furthermore, page 6, (Update to Letters Patent, Index #1), effective notice of which was published three consecutive weeks in the Madill Record (Notice, Index #2) in accordance with usual and customary practices, clearly states "failure to challenge or refute the superior claims herein triggers laches/estoppel, shall forever bar the same against the transfer of title into any other name except of the lawful heir…" and is binding as a matter of contract between the parties. Mary Nowlin can only seek redress and remedy in federal court, and her claim is superior or independent from whatever Bedford and Pace thought they claimed. Without standing, it is void as well as is any relief the District Court attempted to grant to Bedford and Pace.

There Are No State Law Defenses

"….courts have consistently recognized that tribes, as well as the United States while acting as a trustee on behalf of Indian tribes, are not subject to "state delay-based defenses." *Oneida Indian Nation of N.Y. v. New York*, 691 F.2d 1070,

1084 (2d Cir. 1982). These defenses include laches, estoppel, and waiver." *United States of America and Osage Minerals v Osage Wind, LLC*, 14-CV-704-GKF-JFJ (01-11-21) at 5. Nor are Indian land claims subject to state-law affirmative defenses. *Id* at 6. The U.S. Supreme Court "ha[s] indicated that federal courts should 'incorporat[e] [state law] as the federal rule of decision,' unless 'application of [the particular] state law [in question] would frustrate specific objectives of the federal programs.'"**(or statutes)** *Kamen v. Kemper Fin. Servs., Inc.*, 500 U.S. 90, 98 (1991) (alternations in original) (quoting *United States v. Kimbell Foods, Inc.*, 440 U.S. 715, 728 (1979)). *Id.* The 10th Cir Court of Appeals has said: "[W]e incorporate Oklahoma law into this federal claim so long as it does not frustrate federal policy." *Davilla v. Enable Midstream Partners L.P.*, 913 F.3d 959, 969 (10th Cir. 2019). In cases like the facts before the court now involving trespass, the trespass law of the state of Okla is often borrowed, to measure compensatory loss of income in award to Mary Nowlin, as mentioned in the record. It is the position of Mary Nowlin in the district court record all along that, "Because Indian land claims are 'exclusively a matter of federal law,' state property laws are preempted."); Schafer, 2018 WL 10140171, at *8. Citing citation in *Osage Minerals*, page 8. It is a fact that Mary Nowlin's counterclaim is an Indian land claim and independent of Bedford and Pace's frivolous "quiet title" action. District

Court stalled and avoided dismissal of the baseless "quiet title" action, while two motions for dismissal by Mary Nowlin sat in the record.

Regarding the alleged need for a deposition

A deposition, USING PUBLIC DOCUMENTS as Pacewicz proposed was never going to produce anything that Bedford and Pace needed to address regarding the federal character of the Indian property estate belonging to Mary Nowlin's Chickasaw ancestor. Bedford and Pace were solely relying on inapplicable state law and statutes to assert their clients have standing, and thus the perspective to be taken in any discovery efforts to represent their clients. Response of Bedford and Pace to Mary Nowlin's third discovery (a production) request to require them to address their burden of proof was in part: "does not signify responsive documents actually exist, but rather that Bedford has made and will continue to make a reasonable, good faith search and attempt to ascertain whether responsive documents do in fact exist." <Index, Doc #15, pg 3, para 6> Or to object because (excerpted) "purports to require the creation of documents that do not exist." <Index, Doc #15, pg 3 para 7> The best excuse was to object based on the evasive "cumulative or duplicative of other discovery sought or is obtainable from another source that is less inconvenient, less burdensome and less expensive." To prove their case isn't beyond impositions required by applicable rules and laws, and certainly the district court could have been a better mediator. **The deposition**

was unnecessary and the information Bedford and Pace needed was actually already in the court's record as FACTS and not objected to because they filed it. The only person who seemed to object was the District Court. Mary Nowlin was constantly trying to have the district court address the federal nature of the property at issue. The invariable outcome is in favor of Mary Nowlin based in law.

Twice filed Mandatory Joinder Motions by Mary Nowlin

Mary Nowlin filed the motions to have those who are most responsible for the passing of void deeds, and who may provide Bedford and Pace remedy in determining why they themselves acquired void deeds. The other basis for motioning to add Minter family is clear upon review of document <Index, Doc #10> The Appellate Court should be aware that Bedford admitted in prior admission that he had acquired mineral interest belonging to the Nowlin Indian property and Mary Nowlin from a fake mineral deed between Bedford and Peyton Minter. <See Mary Nowlin's affidavit entry DOC 83 laying out the history of the subject Indian property> About a year after the alleged purchase, Bedford contacted the Ayres family. Earl Ayres was the administrator of the fraudulent probate and then used the access to the Indian property to illegally trespass on the mineral rights by separating the minerals from the surface of the Indian estate in 1940. There is a level of knowledge about knowing who to contact in the chain of illegal conversion and fraudulent public documents that could be further addressed

by the federal court if it finds interest. It certainly is evidence suggestive of at the very least "probable cause." Conversion of property is not just a civil but also a criminal matter. The Minter and Ayres family are beneficiaries of the illegalities against the federal government. More importantly, these parties will make it possible for a more thorough accounting of rents and loss of income the affirmed Indian heir is entitled.[11]

CONCLUSION

District court did err in discretion to apply inapplicable state law to render orders and judgements outside of judicial authority and denied or ignored numerous attempts of Mary Nowlin to bring the errs to the district court's attention. These offers to assist Bedford and Pace by the district court must be rolled back and as orders and judgement are void. District Court refused twice to decide on the merits whether and how non-Indians could have legal standing in a purely Indian property counterclaim made by Mary Nowlin. The district court erroneously granted rights to Bedford and Pace in void deeds – that offers no good title when vested legal title only exists in the affirmed heir, Mary Nowlin. It would be a larger violation of due process to allow these preserved intact legal title rights of Mary Nowlin sewn and connected to the sovereign status of the nation's government to be taken or taken without fair and just compensation.

[11] DOC #110, pg 11, FN 10. G. Bogert, Trusts and Trustee Sections 881-97 (2nd Ed 1962).

The federal Indian trust responsibility is a legally enforceable fiduciary obligation, as well as a duty to carry out the mandates of federal law with respect to American Indian tribes (can't fulfill its responsibility if it wasn't informed). The Indian beneficiary of the Indian trust can also enforce these rights <Opening Brief, pg 25, ln 1>. Bedford and Pace plead in their complaint, and those parameters should be construed under the standards set by the court, not as the allegers allege in their pleadings and subsequent filings.

Objections to Appellees' Response brief: List of cases was/are objected to if the case cited is not relevant to Indian property and title or seeks to again argue baselessly the property is under state jurisdiction, or not controlling. This was not waived at the lower district court.

Mary Nowlin's Motion 60(b) in response to District Court order #228 should be in the Appellant's record on appeal as is timely filed for review and relief requested should be granted (see particularly pg 5, ln 6 from the bottom)

The Order #228 is based on March 10, 2020 order in which the Court erroneously places a burden of proof on Mary Nowlin that is against federal statute 25 U.S.C. § 194. Both court orders are subject to request for relief and separately filed Rule 60 b motions <Opening Brief, pg 17; Motion to Vacate pg 8 -9> The burden of proof was on Bedford and Pace as first filers and as non-Indians that can be reviewed on appeal.

Respectfully submitted: Mary Nowlin

By: Mary Nowlin, pro se
c/o 630 Throne Dr. Apt #154 Eugene, OR 97402
Phone: 520-207-4525

CERTIFICATE OF SERVICE

I hereby certify that on January 29th, 2021, I caused the following Reply Brief in No. 20-7070 and Supplement Index to be sent by FedEx Service to the Clerk of Court of the Tenth Circuit Court of Appeals. A copy of the Reply brief and documents in the Index supplied by Mary Nowlin – though in the record or should be the record for appeal will be mailed prepaid first class to Matt Mickle and Michael Pacewicz.

Mary Nowlin

By: Mary Nowlin 630 Throne Dr. #154 Eugene, OR 97402

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION,

TYPE FACE REQUIREMENTS, AND TYPE STYLE REQUIREMENTS

1. This reply brief complies with the type-volume limitation of FRAP 32 (a)(7)(b) because this brief contains 5,619 words at 22 pages (includes certificate of service), but to exclude the parts of FRAP 32 (a)(7)(B)(iii).

2. This brief complies with the typeface requirements of FRAP 32 (a)(5) and the type style requirements of FRAP 32 (a)(6) because the brief has been prepared in a proportionately spaced typeface using 14-pt Times New Roman font.

3. As pro se appellant, I understand the maximum word count could be, not to exceed 6500 words.

By: Mary Nowlin pro se appellant
c/o 630 Throne Dr. Apt. #154 Eugene OR 97402
520-207-4525
Dated 01- -21

** ** ** ** FINIS

686

CERTIFICATE ON DESIGNATING LANDS

EXEMPT FROM TAXATION

FIVE CIVILIZED TRIBES

****

[illegible], Okla., May 29, 1930

Pursuant to Section 4 of the Act of Congress of May 10, 1928 (Public No. 360-[illegible] Congress), the following described restricted Indian lands belonging to Susan [illegible], now Keel, Rt. #1, Woodville, Oklahoma, a full blood citizen of the Chickasaw [illegible]tion, Roll No. 2828, are hereby selected and designated as tax exempt as long as [illegible] title thereto remains in the said Susan Brown, now Keel, or in any full-blood [illegible]dian heir or devisee of said lands; such tax exemption, in no event, however, to [illegible]tend beyond April 26, 1956;

SUBDIVISION:	Sec.	Twp.	Range	Area	County
SW NE SW	31	7S	6E	10	Marshall
E 20 A. of Lot 4	31	7S	6E	20	Marshall
NE NW SE	31	7S	6E	10	Marshall

A. G. McMILLAN,.....ACTING SUPERINTENDENT

[illegible]PARTMENT OF THE INTERIOR, FOR THE FIVE CIVILIZED TRIBES.

[illegible]SHINGTON, D. C. OFFICE OF INDIAN AFFAIRS

OCT. 14, 1930. RECEIVED

[illegible]PROVED: JAS. M. DIXON, First SEP. 20, 1930.

Assistant Secretary. 49065.

[illegible]TE OF OKLAHOMA -:-

[illegible]RSHALL COUNTY -:-

This instrument was filed for record on the 28 day of Nov. A. D. 1930, at 1 o'clock [illegible]. M. and duly recorded in Book 105, page 35. Fee $None in advance.

A. C. BYRD.....COUNTY CLERK.

[illegible]AL) BY F. G.....DEPUTY.

** ** ** ** FINIS ** ** ** **

686

CERTIFICATE DESIGNATING LANDS

EXEMPT FROM TAXATION

FIVE CIVILIZED TRIBES

** ** ** ** ** **

[illegible], Okla., May, 29, 1930.

Pursuant to [illegible]

FIRST NOTICE OF LEGAL PUBLICATION

This copy has been provided to you for your information and for you to check for errors – this is not proof of publication. After final publication of your legal notice and after payment has been received, our official Proof of Publication will be prepared and filed with the Marshall County Courthouse or mailed per your instructions.

THE MADILL RECORD
"In the Arms of Lake Texoma"
Published Every Thursday in Madill, Oklahoma

NOTICE

Know all by these presents on or about February 06, 2017 at the Marshall County Clerk's Office in Madill, Oklahoma, Helen and Mary Nowlin filed the following documents: Declaration and Notice of Heir's Update of Land Patent, nunc pro tunc 02/28/1927, Allotment 24746, issued August 25, 1906: NE 1/4 of the NW 1/4 of the SE 1/4 and the SW 1/4 of the NE 1/4 of the SW 1/4 and the E (20) of Lot (4) of Sec (31), Tshp (7) S and Range (6) East). Subject documents permanently cloud title, including all water and mineral rights after 60 days.
(Published in The Madill Record February 9, 16 and 23, 2017-3t)

Dear Madame or Sir,

This is to notify you that your publication in regards to:

Notice

is being published in The Madill Record for the issues of

February 9, 2017
February 16, 2017
February 23, 2017
....., 20.....
....., 20.....
....., 20.....

When completed, the amount of the publication fee will be $ 46.00

If there are any errors in this proof please notify us at once and give us definite instructions concerning the corrections to be made.

We wish to thank you for your business, and trust that all details in connection with it will be handled exactly as you wish.

2017071402072306O
Filing Fee. $13 00

07/14/2017 10 50 05 AM
UC1

Very truly yours,
The Madill Record
580-795-3355

Please remit to:
The Madill Record
PO Box 529
Madill, OK 73446

COUNTY CLERK OFFICIAL SEAL MARSHALL COUNTY, OK

RECORD, ATTACH as encumbrance to deeds of property, as described)
AND MAIL EVIDENCE OF RECORDING TO:
MARY NOWLIN)
1338 DESERT MEADOWS CIR)
GREEN VALLEY, AZ 85614)
)
RECORDER'S USE

I-2017-283
STATE OF OKLAHOMA
MARSHALL COUNTY S.S.
7 Feb 17
10945 01

THIS IS DECLARATION AND NOTICE OF HEIR'S UPDATE OF PATENT AND DECLARATION OF LAND PATENT ARISING FROM LETTERS PATENT, THE GENERAL ALLOTMENT ACT (24 Stat. 388-391; 1 Kappler, 33 and 26 Stat. 81; 1 Kappler, 45) and provision of lands governed by the June 28, 1898. [30 Stat., 495., Sec. 29., applicable to the land allotments of the Choctaw / Chickasaw, established before the fraudulent loss of the said property and as all recorded and duly authorized by the laws of the United States (mentioning and including any assumed Abstract of Title relating to subsurface rights and treated separately). MARY NOWLIN is also a CREDITOR for purposes of the Uniform Fraudulent Transfers Act / UFTA.

KNOW ALL MEN / WOMEN BY THESE PRESENTS: That MARY NOWLIN does certify and declare patent and patent rights that I bring forth in the following land patent in my name as the lawful heir of the original allottee, and under aboriginal title, in continuation of Susan Brown, Chickasaw by Blood, any derivation of her name (Brown nee Jefferson, nee Nowlin and nee Keel) through her son, Raymond Nowlin (deceased) and then to me, his daughter. The purported transfer from federal to state and then to third parties fails, based on formal breach of law against inalienable rights, as evidenced by public record in Marshall County, Oklahoma, including but not limited to: unlawful land conversion, clear lack of due process and undue private enrichment through use of state, local governments and judiciary (visit google.com and type in "Deceit in Oklahoma"). This update is based on sound law and fact that the federal Indian allotment land patent never converted to state jurisdiction, neither on January, 23, 1930, May 02, 1930 or any time thereafter of the purported land transfers since federal jurisdiction was never converted to state authority of the land at issue, due to fraud, nor on February 17, 1931, at final disposition signed by "Judge George Sneed" of fraud in violation of the probate court, participation of the court or not due to clear contract & heirship fraud. Therefore, as the living heir in succession, as the District Court of Marshall County, Oklahoma agreed by issuance of a Judicial Determination of Heirship in March 09, 2011, I assume now my Father's rights and those of my Grandmother. Awareness of the fraud and extent of the fraud was known by April 28, 2015 by heir / claimant.

INSTRUCTION to County clerks: you are ordered to act upon this notice. **THE RECIPIENT HEREOF THIS NOTICE IS MANDATED BY** Art. VI, Sections 1, 2, 3; Art. IV Sections I CL. 1& 2; Section 2 CL. 1 & 2; Section 4; the 4th, 7th, 9th and 10th Amendments (U.S. Constitution, 1781-91) to acknowledge heir's update of patent prosecuted by authority under Art. III, Section 2 CL. 1 & 2 and enforced by original/exclusive jurisdiction thereunder. All Common Law rights reserved (1-308 and 1-207).

*Once recorded and after 60 days have passed, **THIS DOCUMENT is effectively ATTACHED TO ALL INFERIOR DEEDS AND / OR ASSUMED CONVEYANCES AND PLACED IN THE NAME OF THE HEIR and creates a patent lien right in the heir / claimant. It includes land, surface and subsurface and any improvements must be moved at cost of color of title holder or bar all rights to those structures, fixed or not. Name to be placed in the public record is <Helen and Mary Nowlin Irrevocable Common Law Trust, NUNC PRO TUNC February 28, 1927, BY ORDER OF UNITED STATES SUPREME LAW AND THE MANDATE AS SUPPORTED BY PUBLIC EVIDENCE>**

RECORDING OF THIS DOCUMENT WILL PROVIDE ACTUAL, SPECIFIC NOTICE TO ALL PERSONS, INTERESTED OR NOT AS ADMINISTRATED BY THE MARSHALL COUNTY RECORDERS OFFICE WHERE THE LAND is located. Newspaper notice will run three consecutive times in the Madill Record.

All **PATENT NUMBER(S)** issued in Susan Brown's name were as follows: *Homestead* #13966 (Certificate No. 7515) and *Allotment* #24746 (all within Indian Territory, Oklahoma, Marshall County). Relevant land patent to which

PLAINTIFF'S EXHIBIT

A

STATE OF OKLAHOMA
MARSHALL COUNTY SS
THIS INSTRUMENT WAS FILED FOR RECORD
17 April 2017
Book 1097 Page 298
County Clerk
By ______ Deputy

COUNTY CLERK OFFICIAL SEAL MARSHALL COUNTY, OK

I-2017-901

AFFIDAVIT OF LEGAL HEIRS

Be it all known that, this presents matters related to

Raymond L. Nowlin
Decedent

State of Washington)
)
County of Lewis)

I, Helen M. Nowlin, of Glenoma, residing at 8242 US HWY 12 is the Affiant, being of lawful age and being duly sworn, upon oath deposes and says that she is the youngest of 8 children of Raymond L. Nowlin, hereinafter referred to as "the Decedent," and that the answers and statements given in the following questionnaire are based upon Affiant's personal knowledge and are true and correct:

PLAIN STATEMENTS OF FACT

1. I and the other 7 siblings are the heirs at law, established under the exclusive and conclusive authority of the Marshall County, District Court in Oklahoma.
2. Actual Determination of Heirs was issued on March 09, 2011, based on public documentation supporting the findings of the court, formally closing the Estate of Susan Brown then Jefferson, then Nowlin, then Keel (Chickasaw #2828).
3. Raymond L. Nowlin was born during a lawful marriage between Susan or Susie Brown Jefferson, then Nowlin, then Keel and Lorenzo E. Nowlin (a.k.a. L.E. Nowlin).
4. Decedent was 12 years old at the time of his mother's death when she died in possession of her designated 40 acre homestead site and restricted land. Legal Land Description: North East Quarter of the North West Quarter of the South East Quarter and the South West Quarter of the North East Quarter of the South West Quarter and the East Twenty (20) Acres of Lot Four (4) of Section Thirty – one (31), Township Seven (7) South and Range Six (6) East (all in Marshall County of the Choctaw-Chickasaw Nation
5. Allotment packet states that 30 of those acres (South West Quarter of the North East Quarter of the South West Quarter and the East Twenty (20) Acres of Lot Four (4) had one house and one barn and a well, and partially in cultivation.
6. Decedent was born in Township Odele, Woodville, Oklahoma (in Marshall County).
7. The above legal land description was never converted to state jurisdiction, since no probate or land sale or deed was authorized by federal law and if any attempt it was in direct violation of federal law and thus, void at the time of the attempted action.

I attest the statements given are based upon Affiant's personal knowledge and are true and correct.

Helen Nowlin
Affiant's signature

State of Washington)
)
Lewis County)

SUBSCRIBED AND SWORN BEFORE ME on 10 day of April, 2017.

[signature]
Signature
Notary Public
My Commission Expires: [illegible]

JANET M BERRY
Notary Public
State of Washington
My Appointment Expires March 14, 2021

PLAINTIFF'S EXHIBIT
B

ALLOTMENT PATENT. CHICKASAW BY BLOOD ROLL NO. 2828

NO. 24746 DATE OF CERTIFICATE August 25, 1906

THE CHOCTAW AND CHICKASAW NATIONS,
INDIAN TERRITORY.

To All To Whom These Presents Shall Come, Greeting:

WHEREAS, By the Act of Congress, Approved July 1, 1902 (32 Stat., 641), and ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902, it was provided that there should be allotted by the Commission to the Five Civilized Tribes, to each citizen of the Choctaw and Chickasaw Nations land equal in value to three hundred and twenty acres of the average allottable lands of the Choctaw and Chickasaw Nations; and,

WHEREAS, It was provided by said Act of Congress that each member of said tribes shall at the time of the selection of his allotment, designate, or have selected or designated for him, from his allotment, land equal in value to one hundred and sixty acres of the average allottable land of the Choctaw and Chickasaw Nations, as nearly as may be, as a homestead, for which separate certificate and patent shall issue; and,

WHEREAS, The said Commission to the Five Civilized Tribes, or its lawful successor, has certified that the land hereinafter described has been selected by or on behalf of Susan Brown a citizen of the Chickasaw Nation as an allotment, exclusive of land equal in value to one hundred and sixty acres of the average allottable lands of the Choctaw and Chickasaw Nation selected as a homestead as aforesaid:

NOW, THEREFORE, We, the undersigned, the Principal Chief of the Choctaw Nation, and the Governor of the Chickasaw Nation, by virtue of the power and authority vested in us by the twenty-ninth section of the Act of Congress of the United States, approved June 28, 1898 (30 Stat., 495), have granted and conveyed, and by these presents do grant and convey unto the said Susan Brown all right, title and interest of the Choctaw and Chickasaw Nations and all other citizens of Said Nations, in and to the following described land, viz:

The West Half of the East Half of the North East Quarter of Section Fourteen (14), and the North West Quarter of the North West Quarter of the North West Quarter of Section Twenty (20), and the South Nineteen and 6/100 (19.06) Acres of Lot Four (4) of Section Thirty (30), and the West Half of the North East Quarter of the South East Quarter of Section Thirty-one (31), Township Seven (7) South and Range Five (5) East, and the North East Quarter of the North West Quarter of the South East Quarter and the South West Quarter of the North East Quarter of the South West Quarter and the East Twenty (20) Acres of Lot Four (4) of Section Thirty-one (31), Township Seven (7) South and Range Six (6) East, (Chickasaw Nation),

of the Indian Base and Meridian, in Indian Territory, containing One Hundred and Twenty-nine and 6/100 (129.06)

acres, more or less, as the case may be, according to the United States survey thereof, subject, however, to the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641).

IN WITNESS WHEREOF, We, the Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation, have hereunto set our hands and caused the great seal of our respective nations to be affixed at the dates hereinafter shown.

SEAL

BUREAU OF INDIAN AFFAIRS
MUSKOGEE, OKLAHOMA
CERTIFIED TRUE COPY
CERTIFYING OFFICER

Date, Sept 24 1907, 190

Green McCurtain
Principal Chief of the Choctaw Nation.

Date, Oct 1 1907, 190

Douglas H. Johnston
Governor of the Chickasaw Nation.

Department of the Interior.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD, et al.	)	
Plaintiff(s),	)	
	)	
vs.	)	Case No.18-184-KEW
	)	
	)	
MARY NOWLIN, et al.	)	
Defendant(s).	)	

JOINT STATUS REPORT

Pursuant to Federal Rules of Civil Procedure 26(f) a meeting was held on August 7, 2018 via telephone conference.

The parties have bene unable to agree on many areas of the joint status report, and have agreed to submit separate reports to the court.

Matt Mickle would alert the court that the telephone conference is scheduled for August 30, 2018 at 1:45 PM. He has a trial hearing on that morning in the adjoining county. He anticipates the hearing being completed before the telephone conference. However Kenneth Rainbolt, an attorney licensed in the Eastern District of Oklahoma will be present on Matt Mickle's behalf if Matt Mickle is unable to attend. Kenneth Rainbolt shares an office with Matt Mickle and will be available at the same number.

Plaintiffs appearing by counsel, Matt Mickle and defendant Helen Nowlin appearing pro se.

1. Summary of Claims:

Plaintiff's Claims: This is a lawsuit to quiet title against Defendants and into the names of the Plaintiffs. Plaintiff's purchased the real property over 15 years ago for fair market value. The Defendant has filed documents in the County Clerk's office of Marshall County and UCC liens in the Oklahoma County Clerk's office which are clouds on title and should be quieted.

Defendant's Claims: _____

2. Summary of Defenses: _____

3. Stipulations:

A. Jurisdiction Admitted:
No.
Explain:
The Plaintiffs believe the proper jurisdiction is the Marshall County Oklahoma District Court.

B. Venue appropriate:
No
Explain:
The Plaintiffs believe the proper venue is the Marshall County Oklahoma District Court.

C. Facts: All documents filed by the Defendants claim title to the real property in their name, or in the name of their "irrevocable common law trust". The real property is located entirely in Marshall County, Oklahoma.

D. Law: 12 Okl.St.Ann. § 131

4. Discovery Plan: The parties jointly propose to the Court the following discovery plan: (Use separate paragraphs or subparagraphs as necessary if parties disagree.)

Plaintiff's Discovery Plan

Plaintiffs: On the Defendants. Discovery will be needed on the following subjects:

All discovery commenced in time to be completed by November 15, 2018.

Discovery on _____ (issue for early discovery)_____ to be completed by_____

Maximum of 30 interrogatories by each party to any other party. Responses due 30 days after service.

Maximum of 30 requests for admission by each party to any other party. Responses due 30 days after service.

Maximum of 1 depositions by plaintiff(s) and 1 by defendant(s).

Each deposition limited to maximum of 6 hours unless extended by agreement of parties.

Defendant's Discovery Plan:

5. All parties consent to trial before Magistrate Judge?
YES

6. Settlement Plan:
Settlement Conference requested after November 15, 2018.
Other ADR (explain) _____.

7. Estimated Litigation Costs:
A. Plaintiff

(1) Through discovery cutoff $ $5,000
(2) Discovery cutoff through trial $ $5,000
(3) Appeal $ $5,000

Total $15,000

B. Defendant

(1) Through discovery cutoff $ _____
(2) Discovery cutoff through trial $ _____
(3) Appeal $ _____

Total $ _____

GRAND TOTAL (All Parties) $ _____

Actual amount in controversy

Plaintiffs: Attorney fees and fair market value of the real property which is estimated at $450,000.

Defendants:

APPROVED:

s/ Matt Mickle _____ Date:August 23, 2018
Matt Mickle
Attorney for the Plaintiff

_____ Date:_____
Helen Nowlin
Pro Se for the Defendants

Re: Activity in Case 6:18-cv-00184-KEW Bedford et al v. Nowlin et al Minute Order

Matt Mickle <matt@micklelaw.com>
Mon 8/27/2018 1:34 PM
To: Helen N <forestresources@hotmail.com>

You know as much as I do.

This is the only communication I received. I'm sure they are mailing you a similar document.

Matt Mickle
Mickle Law Offices
323 W. Main Street
Durant, OK 74701
580.924.7777 work
580.924.2600 fax

On Aug 27, 2018, at 3:19 PM, Helen N <forestresources@hotmail.com> wrote:

Huh? What? Why?

Helen Nowlin, Attorney
Mobile Notary & Document Service
http://www.educationalfamilyestateapps.com
360-635-6437 (Business and Fax #)
All of the information sent through any and all forms of mediums of communication by the paramount Secured Party Creditor and the originator of this email are private. Including but not limited to, any attachment(s). This private email message, including any attachment(s) is limited the sole use of the intended recipient and may contain Privileged and/or Confidential Information. All rights under law are reserved without prejudice and as further secured under UCC 1-308. Notify the sender if you have received this in possible error.

From: Matt Mickle <matt@micklelaw.com>
Sent: Monday, August 27, 2018 1:14 PM
To: Helen Nowlin
Subject: Fwd: Activity in Case 6:18-cv-00184-KEW Bedford et al v. Nowlin et al Minute Order

I just received this email.

Complainant H Nowlin
Exhibit B

Matt Mickle
Mickle Law Offices
323 W. Main Street
Durant, OK 74701

6. Custodians of third party records.

7. Expert witnesses not yet identified.

8. Rebuttal witnesses not yet identified.

9. [redacted]

B. **Documents**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(ii), Plaintiffs may use the following categories of documents, electronically stored information, and tangible things in support of their claims or their defenses to Defendants' claims:

Our evidence title index 2

1. Abstracts of title concerning subject property. Location: Plaintiffs' counsel, Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

VOID

2. Warranty Deed from Robert E. Myers and Shirley M. Myers to Ray H. Pace and Sondra N. Pace, dated August 19, 1993. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

VOID

3. Warranty Deed from Shirley Myers Parsons to Ray. H. Pace and Sondra N. Pace, dated October 2, 1994. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

VOID

4. Warranty Deed from Peyton H. Minter and Mary Beth Minter to William Scott Bedford, dated June 4, 1998. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

5. Mineral Deed from Peyton H. Minter and Mary Beth Minter to William Scott Bedford, dated June 4, 1998. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

6. Declaration and Notice of Heir's Update of Patent, dated January 31, 2017. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800;

7. Affidavit of Legal Heirs, dated April 10, 2017. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

8. UCC Financing Statement, dated August 2, 2017. Location: Michael Pacewicz, Crowe & Dunlevy, PC, 500 Kennedy Building, 321 South Boston Avenue, Tulsa, OK 74103; 918-592-9800.

9. Documents attached as exhibits to any pleadings or other documents filed with this Court in this action.

10. Exhibits to any depositions taken in this action.

11. Third party documents obtained through discovery.

12. Demonstrative exhibits.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

William Scott Bedford, et. al.

Plaintiff(s),

vs.

Case No. 18-184-KEW

Mary Nowlin, Trustee of Helen and Mary Nowlin ~~Irrevocable Common Law~~ Trust

Defendant(s).

DEFENDANT'S STATUS REPORT

Pursuant to Federal Rules of Civil Procedure 26(f) a meeting was held on August 07, 2018 via telephone conference. Due to the apparent differences, Plaintiff's attorney suggested the parties send their own versions of a status report and Defendants have agreed. Defendants appear pro se.

1. Summary of Claims:

Plaintiff's Claim: Filed separately.

Defendant's Claims: I move this Court to dismiss plaintiff's "quiet title" claim, since the matter before the court is not a mere "state-based" property issue. Counterclaim should proceed, based upon 28 U.S.C.§ 1441 (a) and as sole federal question pursuant to 28 U.S.C.§ 1331 involving a fraudulent probate / numerous fraudulent land conveyances of my Grandmother's (Susan Brown nee Nowlin) Indian restricted 40 acre land estate (described in the allotment packet as having a house and under cultivation) at a time when the Indian land was under exclusive federal control / trust period (e.g. legal title was held by the federal government for the benefit of the individual, and her heirs, pursuant to 25 U.S.C. § 348 (25 year trust period); McCumber Amendment to the 5 Tribes Act of April 26, 1906 (inalienability of allotment for said period/ 25 U.S.C. § 349, stating that until fee-simple patents were issued, land was subject to the exclusive jurisdiction of the United states federal government), plus §9 Act of May 27, 1908 providing additional federal oversight to defend rights of "after-born" children (after Dawes Roll closed March, 1906 born to original allottees). Raymond Nowlin was born to Susan Brown nee Nowlin on October 13, 1914 (Woodville, Marshall County, OK).
I draw the court's special attention to the developed discussions in the documents, known as Verified Reply (Reply of Defendants to Plaintiffs) signed dated on July 26, 2018 which lays out current "dubious" transactions and Motion Order to Join Indispensible parties signed dated on August 09, 2018 (accepted by Clerk of Court on August 13, 2018) with the reasons for granting Defendant's motion and reserving right to name more as Discovery process begins, along with all supplemental exhibits thus far provided to this honorable Court for consideration.

Violation of federal inalienability law renders the first conveyance and all subsequent (fraudulent) conveyances void (as set out in Section 5 & 6 of the act of Congress of May 27, 1908 plus review Lewis G. Mosburg, Jr. TRANSFERS OF TITLE TO INDIAN LANDS). Legal title of the Indian estate belonged in the name of the federal government at the time of first conveyance, it is freeze frozen because of the

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD	)	
	)	
RAY H PACE AND SONDRA N PACE, HUSBAND AND WIFE,	)	
Plaintiffs	)	CIV-18-184-KEW
	)	
vs.	)	
	)	
MARY NOWLIN,	)	
	)	
THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST	)	VERIFIED DEFENDANT'S REPLY
	)	
Defendants.	)	28 U.S.C. § 1441 (a)

REPLY OF DEFENDANTS TO PLAINTIFFS RESPONSE

Comes Now, HELEN NOWLIN, Agent of MARY NOWLIN, Trustee of the Helen and Mary Nowlin Irrevocable Common Law Trust hereby reply to RESPONSE OF PLAINTIFFS to Removal, state in support therefor as follows:

1. As a point of correction to Plaintiffs / Plaintiffs' attorney, Helen M Nowlin will be properly spelled, as set forth in all prior correspondence.
2. The different instruments to wit Plaintiffs mention in their response represent nothing more than surety to the heirs who knew enough about their lawful rights and to assert these rights to this Indian land estate.
3. 25 U.S.C. § 348 (25 year trust period); McCumber Amendment to the 5 Tribes Act of April 26, 1906 (laying out inalienability of allotment for said 25 year period); 25 U.S.C. § 349 (procuring exclusive United States federal government legal title in the Indian estate

land), plus §9 Act of May 27, 1908 making the homestead inalienable to protect "after-born" children of the original allottee.

4. Section 5 & 6 of the act of Congress of May 27, 1908 makes any conveyance in violation of federal inalienability laws void.
5. 25 year trust period did not end until April 26, 1931. An illegal probate ended on March 10, 1931 with five (5) fraudulent land conveyances having occurred during trust period.
6. A copy of this Reply will be mailed promptly to Matt Mickle, attorney on record for Plaintiffs.

Wherefore, Defendant moves this Court for a bi-furcated judgement: to dismiss Plaintiff's quiet title and 2) as against all parties who claim some interest in the Nowlin Indian land estate return it in its original state, all fixtures and including mineral rights and 2) monetary award in the amount of revenue from the land, including rent, lease and royalty with litigation expenses for forensic research activities. FINALLY, Defendants move the Court to grant such other and further relief as may be deemed reasonable and just under the circumstances.

Respectfully submitted,

Helen Nowlin,
agent of Mary Nowlin (pro se)
c/o P.O. Box 55
Glenoma, WA 98336

CERTIFICATE OF SERVICE

UNDER PENALTY OF PERJURY, I hereby certify that on August 21, 2018 I sent by U.S.P.S. first class mail a copy of above document in said case CIV-18-184-KEW to Matt Mickle, attorney on record for Plaintiffs and the United States District Court Eastern District of Oklahoma by USPS certified #: 7015 0640 0006 8469 7681.

Signed by: Helen Nowlin agent for Mary Nowlin
c/o PO Box 55
Glenoma, WA 98336
360-635-6437; electhelennowpud@gmail.com

state of Washington)
) ss.
county of Lewis)

BEFORE ME personally appeared Helen Nowlin who being by me duly sworn and identified in accordance with law, did execute the foregoing in my presence this
21 day of August, 2018.

COPY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD	)	
	)	
RAY H PACE AND SONDRA N PACE,	)	
HUSBAND AND WIFE,	)	
Plaintiffs	)	CIV-18-184-KEW
	)	
	)	
vs.	)	
	)	
MARY NOWLIN,	)	
	)	
THE HELEN AND MARY NOWLIN	)	VERIFIED
IRREVOCABLE COMMON LAW TRUST	)	MOTION & ORDER
	)	TO JOIN INDISPENSIBLE PARTIES
Defendants.	)	under F.R.C.P. 19 (a) (2)

MOTION TO JOIN INDISPENSIBLE PARTIES

Comes now, MARY NOWLIN, in accordance with the Court's finding on March 20, 2019, page 3, declare: I am pro se and any documents stricken by the Court, erroneously or with bias was without prejudice and may be refiled, stating further in support:

1. I hereby move this Court to act on this order joining indispensable parties currently known to have an interest in either the Nowlin Indian land estate or are necessary for Defendant's tally of monetary damages to proceed equitably (or future identified parties as they become known).

[OPPOSING COUNSEL originally OBJECTED because: "named individuals have not filed anything which clouds my client's ownership of the property and my client is attempting to quiet title to the surface."]

DEFENDANT'S REPLY TO OBJECTION: Mr. Bedford admitted in prior admission that he felt he acquired mineral interests from Peyton Minter but public evidence shows it was a fake

mineral deed between he and Peyton Minter. Peyton Minter didn't own any of my minerals; it was always in the Ayres family name. At the time of the alleged conveyance of the Nowlin Indian land estate some pro-rata share of what Bedford claimed to have "purchased" wound up in Peyton Minter's sister's estate, according to Jane Eppler's probate records.

Other questions arise, since any involvement of Reuel Little or Ayres family name in any alleged conveyance connects the dots right back to the original illegal and fraudulent activities against the heirs of Nowlin Indian land estate.

Furthermore, Defendant's request is necessary to pursue my counter suit and affirmative defenses, plus once the surface and minerals were separated, since 1940 by Veda Ayres, Defendant's remedies will necessarily require the surface and mineral rights to merge again. These things appear to have been done in violation of federal laws, including 25 U.S.C. 348; 18 U.S.C. 1957; possibly 31 U.S.C. 5324 and drawing further attention to 18 U.S.C. 3332, "within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district."

2. Susan Brown Nowlin (full blood Chickasaw #2828) who died retaining her designated, restricted 40 acre homestead, defined as NE ¼ of NW ¼ of SE ¼ (surface under Lake Texoma – US Army Corp of Engineers / minerals in the Ayres family name) and SW ¼ of NE ¼ of SW ¼ (surface Ray and Sondra Pace / minerals in the Ayres family name) and E20 acres of LOT4 (Bedford / minerals in Ayres family name), Sect 31, Township 7S and Range 6E [actual issue is illegal loss of property and assets held in trust and contract]
3. Countersuit and relief requested is two- fold: 1) return the Indian land and minerals subject only to legitimate Oklahoma State intestacy rules and 2) monetary award for disgorgement of assets.
4. Mary Nowlin requests the Court to add the following parties who represent a class of beneficiaries who benefitted from the diverted revenue (and therefore are subject to defendant's right to loss of revenue) or who still have interest in the Nowlin Indian land estate and are indispensable parties:
   A) Peyton Minter resides at 803 Little Ave., Madill, OK 73446 representative of the Minter / Eppler family (Jane Minter Eppler's probate PB-2011-40 (book 987 page 105).

B) David Eppler, et al beneficiary of Jane Minter Eppler's probate 4416 San Fernando Lane McKinney, TX 75070

C) Donald Gene Ayres, Jr. c/o numerous trusts, heirs and devisees of Sylvia Ayres & Earl Edgar Ayres may reside at 20614 EDMONDS LN, MADILL, OK 73446 or PO Box 215 Madill, OK 73446 (including the Estate of Lucy Ette Ayres PB-2017-30 (book 1112 page 547).

D) Shirley Mae Ridley, formerly Shirley M. Myers last known address 11340 Benttree Circle, Oklahoma City, OK 73120 (Oil and Gas lease dated on July 16, 2015 and filed on November 09, 2015. Shirley Mae Ridley claims to have mineral right of the Nowlin Indian land estate. Recent lease in the name of Shirley Ridley as "grantor".

E) Helen Nowlin, an identified heir to Susan Brown Nowlin.

5. Rule 19 states a required party who is subject to service of process and will not deprive the court of subject matter jurisdiction must be joined as a party if: 1) the absence the court can't complete relief among existing parties; or 2) that person claims an interest relating to the subject of the actions and may if absent: i) impair or impede the person's ability to protect the interest or ii) leave an existing party subject to substantial risk.
6. The nexus or connection to the Nowlin Indian Land estate (real property) provides the Court "in rem" authority over the individual(s).
7. 10th circuit Court of Appeals has stated it only requires the movant to show that the absent party "claims an interest relating to the subject of the action." Davis v. U.S., 192 F. 3d 951 - Court of Appeals, 10th Circuit 1999
8. Cross claims that these parties can do will assist the parties to discuss settlement terms, if any among each other, since entire family names are involved and have unjustly enriched heirs and beneficiaries.

DEFENDANT'S EXHIBITS:

As originally filed with the Court.

9. A copy of this Motion will be mailed promptly to Matt Mickle and Michael R Pacewicz, attorneys on record for Plaintiffs.

Wherefore, Mary Nowlin moves this Court to enter an Order joining the named indispensable parties, pursuant to FRCP 19 (a)(1) & (2). Exhibits already provided establish their claims of interest in the Nowlin Indian Land Estate and grant such other and further relief as the Court may deem reasonable and just under these circumstances.

Respectfully submitted,

This filed on 7/12/19 → White #55 Copy

This is the one used for White's order

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD RAY H PACE AND SONDRA N PACE, HUSBAND AND WIFE, Plaintiffs vs. MARY NOWLIN, THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST Defendants.	)	~~CIV-18-184-RAW~~ Mary's Notice Prior Notice filed on 6/26/19 ~~NOTICE TO THE COURT~~ Objections: "plaintiff" request for discovery and other matters (First American Title Ins) re: Michael R Pacewicz / DBA lawyer

Motion to Join Indispensable parties + declaration in support

Motion to Dismiss

Doc 36/40

NOTICE (Anomalies to be preserved for the record and action by court requested)
Comes Now, MARY NOWLIN, hereby provides notice to inform this Court about anomalies about a discovery request through Michael R Pacewicz / DBA lawyer and generally, about anomalies regarding the Plaintiffs management of the case, stating in support therefor as follows:

1. Objections based on FRCP 59 (e) and Rule 72 were filed with this Court on March 28, 2019 (still pending) which lays out AGAIN what Defendant must show to prevail as a matter of law and I have shown. See Section titled "BRIEF BACKGROUND" in the Objections document.
2. Defendant only needs to establish two facts to prevail under Summary Judgement: a) Nowlin Indian land estate is designated Indian land and b) illegal acts (first attempt to alienate or convey) occurred during the 25 year trust period or before April 26, 1931.
3. It is established in the record by establishing the relevant federal law and why federal law was violated. Proof of heirship and admitted to by Plaintiffs in prior Discovery is

available. Helen Nowlin and I are entitled to the return of the Indian land and mineral rights.

4. Alternatively, Plaintiffs must establish that the facts under #2 don't apply. No amount of time or discovery will ever meet their burden of proof as FIRST FILERS.
5. As having established my federal rights to the Susan Brown Nowlin (Chickasaw #2828) estate which can be traced back to present (and ongoing or reasonably suspected illegalities), the only thing left is the legal right to losses (loss of revenue) because of the illegal loss of Indian land (me and my sister, Helen Nowlin).
6. Anyone who admits to trespassing or intruding (not an intended party or beneficiary of Susan Brown Nowlin's Indian land estate or trust) now owes rent.
7. Plaintiff Bedford through Michael R Pacewicz / DBA lawyer are asking for information that is readily in the public domain and not the kind of information Bedford needs to prove his case (See #4 above).
8. Title companies are paid to research the public domain prior to certifying but whenever there is land fraud, there is likely money laundering.
9. Those concerns are not that of the Defense. It is sum certain factually and legal right(s).
10. Further discovery which is merely intending to slow the judicial process or evade the plaintiffs burden of proof or clearly lies outside the scope of what the relevant law states Plaintiffs' must prove is ASSUMED harassment by Defendants. Requesting Court apply Rule 26 (g)(1)(A) and emphasis on (B)(ii) & (iii). Also, apply Rule 56 (c) & (e).
11. The matter before this federal court is a FEDERAL COMMON LAW INDIAN LAND CLAIM. This Court lacks authority to quiet title federal Indian lands.

NOTICE: PRESENCE OF FIRST AMERICAN TITLE INSURANCE COMPANY

12. Besides the lack of candor by Michael R Pacewicz / DBA lawyer brought to the attention of this Court in my Declaration titled Declaration of Mary Nowlin (pro se testimony Motion to Dismiss citing FRCP 43 (c) and 56 (c)(4) re: federal common law Indian land claim), there are more pressing and SERIOUS questions about the role of Michael R Pacewicz / DBA lawyer and what Plaintiffs appear to expect this Court to approve as "case management." See Defendant's EXHIBIT A – COPY OF SIGNATURE, PAGE 13.

Objections of Mary Nowlin in response to Doc 84

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

(Doc 89)

WILLIAM SCOTT BEDFORD	)	
	)	
RAY H PACE AND SONDRA N PACE, HUSBAND AND WIFE,	)	
Plaintiffs	)	CIV-18-184-RAW
	)	
vs.	)	
	)	
MARY NOWLIN,	)	
	)	DEFENDANT'S
THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST	)	RESPONSE TO THE COURT
	)	
Defendants.	)	re: Entry 86 / 87 Order by Judge White

Comes Now, MARY NOWLIN, identified fee/trust interest owner of specific Indian land estate, governed under federal law, hereby provides a response to the Court regarding a hearing(s) set for December 17, 2019, requesting reasonable accommodation under these circumstances and further state:

BACKGROUND

1. Plaintiffs filed, having the burden of proof and up until the October 07 (#84) along with Plaintiffs' other admissions they merely claimed the subject property (as described in Defendant's Status Report) is private land and not Indian land or country (non-extinguished allotment). This claim is not consistent with the law, evidence and facts of the counter claim provided to the Court. There is no evidence that can prove Plaintiff's claim; and that the property was not illegally converted against federal inalienability law.

2. Subject matter is proper in this Court (See particularly Defendant's recent entries on the record # 82, 83 and 85). Defendant's Motion for Telephonic appearance is pending before this Court.

3. Evidence shows I am the legal owner (through right of Indian heirship scheme prescribed by federal authority), beneficiary of a federal trust in relationship with "the sovereign" and to trigger the equitable arm of federal district court, it was necessary only to show the right to possession. I am not asking for possession. My right to possession was laid out to large degree in the documents (and their express content) as filed on or around February, 2017 in the county of Marshall and same documents to which Plaintiffs incorporated into their complaint.[1] This has been stated multiple times to this Court as is in the record.[2]

4. It is well settled under 28 U.S.C. Sect 1331, that Congress intended Indian tribes or individual Indians, institute and maintain in the federal courts appropriate suits for the enforcement of the (equitable) rights or the protection of the property of its Indian wards.[3]

5. I am seeking redress and remedy to which I am entitled. I am a victim; trespassers lack rights or rights, if they exist are subservient to the rights of the true legal property owner.

TELEPHONIC PRESENCE

6. Rent for trespass, and FMV of the subject property and mineral rights are yet to be addressed. If settlement should fail then we can go back in time, pull everyone who ever parked on my estate or require his / her heirs and devisees who were all unjustly enriched to parade before this Court and pay their fair share (which is my right) or do as Defendant proposed all along, and to go back only 25 years, to compensate for converted real value of Indian property estate / and the historically lucrative mineral rights (separate issues) to be combined with rent due up to current time and forget the rest. This can be accomplished as settlement or court ordered judgement.

7. Magistrate West didn't hesitate to order a telephonic conference (on June 27, 2018, entry #5) and apparently, did so based only on consideration of distance. This Court was aware of my health issues (COPD, and a compromised immune system).[4] I am having flair ups now.

8. Furthermore, Mickle (plaintiff's attorney) didn't object.

---

[1] "The equity jurisdiction and remedies conferred by the Constitution and statutes of the United States cannot be limited or restrained by state legislation." See *Payne v Hook*, 74 U.S. 7 Wall 425 425 (1868).

[2] Helen Nowlin has in her possession the entire transactional history of the same township, section and range as the subject property is located.

[3] See KAIGHN SMITH, JR, FEDERAL COURTS, STATE POWER, AND INDIAN TRIBES: CONFRONTING THE WELL-PLEADED COMPLAINT RULE, page 34 (http://www.dwmlaw.com/docs/23.Federal-Courts-State-Power-and-Indian-Tribes.pdf). Under contract theory, it would be inaccurate to say Congress today could unilaterally alter an earlier contract/ or treaty without consent of the other party (or succession) and compensation, to compensate for affected rights – after the benefit of the bargain - all the land for some land in exchange has been passed. Changes require consent of both contractual parties.

[4] LCvR 16.1 (justified under the circumstance, Court may allow participation in conference by telephone).

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD, RAY H. PACE AND SONDRA N. PACE, HUSBAND AND WIFE, Plaintiffs, v. MARY NOWLIN, THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST DATED FEBRUARY 28, 1927, Defendants.	)	Case No. CIV 18-184-RAW

PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR DISMISSAL OF COMPLAINT FOR WANT OF SUBJECT MATTER JURISDICTION [DOC. 169]

Plaintiffs William Scott Bedford, Ray H. Pace and Sondra N. Pace ("Plaintiffs"), hereby file this response to *Defendant's Motion for Dismissal of Complaint for Want of Subject Matter Jurisdiction Over a Private Agreement re: FRCP 12(b)(1) and (h)(3)* ("Motion to Dismiss") [Doc. 169], filed by Defendant Mary Nowlin ("Defendant"). The Motion to Dismiss is another in a long line of hastily-prepared, ill-conceived, unsupported documents filed by Defendant in this case in an attempt to increase litigation costs for Plaintiffs. It has no basis in law or fact, and it should be denied.

RELEVANT PROCEDURAL BACKGROUND

1. Plaintiffs initiated this action by filing a *Petition to Quiet Title* ("Petition") in the District Court in and for Marshall County, Oklahoma on May 21, 2018 ("State Court Case").

2. On June 14, 2018, Helen Nowlin, referring to herself as "Agent of Mary Nowlin, Trustee of the Helen and Mary Nowlin Irrevocable Common Law Trust," filed a Verified Notice

Defendant was trustee of the Trust, Defendant *disavowed the existence of any trustee,* essentially admitting to filing such documents under false pretenses. The record in this case is replete with other examples of Defendant's shifting positions and of Defendant's assertion of contradicting arguments. Be that as it may, this case at this stage does not involve any allegations of a breach of the terms of the alleged Trust agreement. Defendant's arguments that neither the Plaintiffs nor this Court can "enforce" any such alleged agreement are wholly misplaced. The Motion to Dismiss should be denied.

III. PLAINTIFFS HAVE STANDING TO BRING THEIR CLAIMS.

A. Oklahoma's Quiet Title Statute provides Plaintiffs with Standing.

Defendant also appears to argue that Plaintiffs lack standing to bring this action and that, consequently, the Court lacks subject matter jurisdiction over their claims.[4] This argument also hinges on the misperception that Plaintiffs' claims are somehow premised on the *terms* of the alleged trust agreement between Defendant and Helen Nowlin. As noted above, they are not. Furthermore, Plaintiffs clearly have standing to bring the claims they have asserted in this case.

"Although Article III standing is a question of federal law, state law may create the asserted legal interest." *Utah ex rel. Div. of Forestry, Fire & State Lands v. United States*, 528 F.3d 712, 721 (10th Cir. 2008). "In determining whether a party has standing to maintain a quiet title action, federal courts look to the law of the state where the land exists." *Thorntons, Inc. v. Chicago Title Ins. Co.*, No. 08-3086, 2009 WL 175044, at *3 (C.D. Ill. Jan. 22, 2009); *Stoltz, Wagner & Brown v. Duncan*, 417 F. Supp. 552, 555 (W.D. Okla. 1976) (same). Numerous federal courts have followed this approach. *See e.g., Rezende v. Ocwen Loan Servicing, LLC,*

[4] The nature of Defendant's filings and her proclivity for changing positions from one filing to the next makes it difficult to identify with any certainty the nature or bases of her arguments. Plaintiffs respectfully reserve the right to seek the Court's leave to file a sur-reply in the event Defendant's reply to this response raises new arguments not contained in the Motion to Dismiss.

IV. IF THE COURT LACKS SUBJECT MATTER JURISDICTION OVER PLAINTIFFS' CLAIMS, DEFENDANTS' COUNTERCLAIMS MUST BE DISMISSED AS WELL.

Alternatively, should the Court determine that Plaintiffs' claims must be dismissed for lack of subject matter jurisdiction, the counterclaims of Defendant and the Trust must be dismissed also. "Under the longstanding well-pleaded complaint rule … a suit arises under federal law only when the plaintiff's statement of his own cause of action shows that it is based upon federal law." *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009) (internal quotation marks, brackets and citation omitted). Federal jurisdiction cannot be predicated on an actual or anticipated defense. *Id.* "Nor can federal jurisdiction rest upon an actual or anticipated counterclaim." *Id.* Even counterclaims that rely exclusively on federal substantive law do not qualify a case for federal-court cognizance. *Id.,* at 62. The well-pleaded complaint rule applies to both the original jurisdiction of the district courts and to their removal jurisdiction. *Franchise Tax Bd. of State of Cal. v. Constr. Laborers Vacation Tr. for S. California,* 463 U.S. 1, 11 (1983). Consequently, if the Court determines that Plaintiffs' claims must be dismissed for lack of subject matter jurisdiction, the counterclaims of Defendant and the Trust must be dismissed as well.

CONCLUSION

Plaintiffs have not brought their claims on or under the alleged Trust agreement. Rather, they have sued the Trust *as a party*. Furthermore, both Oklahoma law and federal law provide Plaintiffs with standing to bring such claims. The Motion to Dismiss should be denied.

WHEREFORE, Plaintiffs respectfully request an order from the Court denying Defendant's Motion to Dismiss in its entirety. Alternatively, if the Court determines that Plaintiffs' claims must be dismissed for lack of subject matter jurisdiction, the counterclaims of Defendant and the Trust must be dismissed as well.

1ST Copy
~~Reply & Motion for Doc #186~~

Keep for case law / notation

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD RAY H PACE AND SONDRA N PACE, HUSBAND AND WIFE, Plaintiffs vs. MARY NOWLIN, THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST Defendants.	)	CIV-18-184-RAW Mary's objections to March 05 DEFENDANT'S REPLY (to Plaintiffs' Entry #186) (Re: Defendant's Motion #169)

Comes now, MARY NOWLIN, in reply to Plaintiffs' Response #186 states further:

1. Plaintiffs' failure to address the status of federal Indian property, vested Federal and Indian title ("when allotment lands appear to have been sold or transferred the procedures relevant to the allottee and restricted Indian heirs must be followed to convey GOOD title[1]) is the reason for unnecessary time, delays and litigation expenses. In fact, Plaintiffs Response #186 should be struck from the record because it continues to wholly lack substance or address the sole issue. In the record is evidence of Indian property in the form of allotment patent **24746** plus the relevant time frame when the subject property was first illegally converted, and the plethora of federal law / cases in favor of Defendant, all wrapped up into Plaintiffs' complaint (and not objected to by Defendant) is the reason for undue time, delays and litigation expenses. Defendant has first in time property rights as the affirmed heir of original allottee.

[1] *Armstrong v Maple Leaf Apartments*, 508 f. 2d 518 (10th Cir 1975). In the Nowlin case, those procedures were fraudulently ignored.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD	)	
	)	
RAY H PACE AND SONDRA N PACE,	)	
HUSBAND AND WIFE,	)	
Plaintiffs	)	
	)	
vs.	)	
	)	
MARY NOWLIN,	)	
	)	CV-18-184-RAW
THE HELEN AND MARY NOWLIN	)	Defendant's REPLY TO PLAINTIFFS'
IRREVOCABLE COMMON LAW TRUST	)	ANSWER to THIRD
	)	Discovery REQUEST
Defendants.	)	(to attach to Defendant's Motion #211/221)

DEFENDANT, Mary Nowlin REPLIES to answers / Responses of Plaintiffs – Bedford/spouse and Paces, applicable to both, since Plaintiffs received the same request (only the pagination or numbering changed) and Plaintiffs have the same responses. Copy of Defendant's request to Plaintiffs is shared with the Court under separate cover as part of Motion #211, and in compliance with LCvR 26.1. Bedford/spouse Response, and subject of this reply is shared as an EXHIBIT to be filed according to the above instructions, and local rule in order to facilitate resolution of Defendant's Motion #211.

Justice Gorsuch in *McGirt* explained that: "[J]ust imagine what it would mean to indulge that path. A State exercises jurisdiction over Native Americans with such persistence that the practice seems normal. Indian landowners lose their titles by fraud or otherwise in sufficient volume that no one remembers whose land it once was. All this continues for long enough that a reservation that was once beyond doubt becomes questionable, and then even farfetched. Sprinkle in a few predictions here, some contestable commentary there, and the job is done, a reservation is disestablished. None of these moves would be permitted in any other area of

calculated to lead to the discovery of admissible evidence. Bedford objects to each *Third Discovery Request* to the extent it is overly broad and/or unduly burdensome.

6. Any statement hereinafter that inspection will be permitted does not signify that responsive documents actually exist, but rather that Bedford has made and will continue to make a reasonable, good faith search and attempt to ascertain whether responsive documents do in fact exist.

7. Bedford objects to any *Third Discovery Request* that purports to require the creation of documents that do not exist.

8. Bedford objects to each *Third Discovery Request* to the extent it purports to require the Bedfords to search for documents that are not within Bedford's possession, custody or control, or are already within Defendant Mary Nowlin's possession, custody or control.

9. Bedford objects to each *Third Discovery Request* to the extent the discovery sought is cumulative or duplicative of other discovery sought or is obtainable from another source that is less inconvenient, less burdensome and less expensive.

10. Bedford objects to any defined terms to the extent they attempt to impose obligations or requirements on Bedford beyond those imposed by applicable rules and laws.

11. Bedford's responses to the *Third Discovery Requests* are made on the basis of information presently available and specifically known to the Bedfords upon reasonable investigation. Because discovery is ongoing, additional facts or documents may exist that are presently unknown to Bedford following reasonable investigation and inquiry. Accordingly, Bedford reserves the right to supplement or revise these responses and to interpose further objections as additional information is discovered, analyzed, or made available during discovery

grounds it is duplicative. Bedford has already produced his policy of title insurance, which describes any exceptions or exclusions to coverage.

PRODUCTION REQUEST NO. 9: Produce the document dated should have incorporated dated at the time of first conveyance to non_Indians (nunc pro tunc February 28, 1927) was with authority and express approval by the Secretary of Interior. Produce it whether as part of title REPORT or not, in order for Plaintiffs as non-Indians and non-heirs are to have standing in the subject property.

RESPONSE TO PRODUCTION REQUEST NO. 9: Objection. This request is so grammatically incomprehensible Bedford is unable to determine what document or documents it seeks. This request is vague and ambiguous with respect to the term "title REPORT." Bedford does not know how Defendant defines the term "this REPORT." To the extent this request seeks an abstract of the title of the "subject property," Bedford states that such abstract would be comprised of documents that are available in the land records of the County Clerk of Marshall County, Oklahoma. As such, they constitute "public sourced" documents which Defendant insists are "not subject to discovery." Defendant cannot on the one hand insist that documents are "not subject to discovery" and on the other hand demand that Bedford produce such documents. Bedford further objects on the ground this request asks him to produce a document that the undefined "Report" "should have incorporated." Bedford is in no position to opine on what documents the undefined Report should or should not have incorporated. Bedford further objects to the extent this request asserts or implies that whatever document it seeks, such document is a prerequisite for Bedford to have standing to assert his claims in this action. The question of Bedford's standing is a determination for the Court. Same used for

Pace by Pawning [illegible]

Treasury to the credit of said tribes, respectively, and when all the just charges against the funds of the respective tribes have been deducted therefrom, any remaining funds shall be distributed per capita to the members then living and the heirs of deceased members whose names appear upon the finally approved rolls of the respective tribes, such distribution to be made under rules and regulations to be prescribed by the Secretary of the Interior.

Jurisdiction of tribal suits.

SEC. 18. That the Secretary of the Interior is hereby authorized to bring suit in the name of the United States, for the use of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, respectively, either before or after the dissolution of the tribal governments, for the collection of any moneys or recovery of any land claimed by any of said tribes, whether such claim shall arise prior to or after the dissolution of the tribal governments, and the United States courts in Indian Territory are hereby given jurisdiction to try and determine all such suits, and the Secretary of the Interior is authorized to pay from the funds of the tribe interested any costs and necessary expenses incurred in maintaining and prosecuting such suits: *Provided*, That proceedings to which any of said tribes is a party pending before any court or tribunal at the date of dissolution of the tribal governments shall not be thereby abated or in anywise affected, but shall proceed to final disposition.

Proviso.
Pending suits not affected.

Set-offs allowed defendants.

Where suit is now pending, or may hereafter be filed in any United States court in the Indian Territory, by or on behalf of any one or more of the Five Civilized Tribes to recover moneys claimed to be due and owing to such tribe, the party defendants to such suit shall have the right to set up and have adjudicated any claim it may have against such tribe; and any balance that may be found due by any tribe or tribes shall be paid by the Treasurer of the United States out of any funds of such tribe or tribes upon the filing of the decree of the court with him.

Alienation restrictions extended.

SEC. 19. That no full-blood Indian of the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this Act, unless such restriction shall, prior to the expiration of said period, be removed by Act of Congress; and for all purposes the quantum of Indian blood possessed by any member of said tribes shall be determined by the rolls of citizens of said tribes approved by the Secretary of the Interior: *Provided, however*, That such full-blood Indians of any of said tribes may lease any lands other than homesteads for more than one year under such rules and regulations as may be prescribed by the Secretary of the Interior; and in case of the inability of any full-blood owner of a homestead, on account of infirmity or age, to work or farm his homestead, the Secretary of the Interior, upon proof of such inability, may authorize the leasing of such homestead under such rules and regulations: *Provided further*, That conveyances heretofore made by members of any of the Five Civilized Tribes subsequent to the selection of allotment and subsequent to removal of restriction, where patents thereafter issue, shall not be deemed or held invalid solely because said conveyances were made prior to issuance and recording or delivery of patent or deed; but this shall not be held or construed as affecting the validity or invalidity of any such conveyance, except as hereinabove provided; and every deed executed before, or for the making of which a contract or agreement was entered into before the removal of restrictions, be and the same is hereby, declared void: *Provided further*, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands shall be exempt from taxation as long as the title remains in the original allottee.

Provisos.
Lease of other than homestead lands permitted.

Prior conveyances not invalid.

Taxes.

Doc#110 25 USC § 194 41(e) motion

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

WILLIAM SCOTT BEDFORD	)	
	)	
RAY H PACE AND SONDRA N PACE, HUSBAND AND WIFE,	)	
Plaintiffs	)	CIV-18-184-RAW
	)	
vs.	)	
	)	
MARY NOWLIN,	)	
	)	DEFENDANT'S
THE HELEN AND MARY NOWLIN IRREVOCABLE COMMON LAW TRUST	)	MEMORANDUM TO THE COURT
	)	
Defendants.	)	re: Summary of Defendant's claim (s)

I. INTRODUCTION

This memorandum is written to the Court as a presentment of Defendant's claim(s), substantially based on facts, evidence and legal basis already in the record to preserve them for appeal. Plaintiffs filed first and have the burden of persuasion pursuant to Rule of Evidence 301. Plaintiffs desperately wish to invoke a presumption but can't prove it - federal Indian land is NOT subject to quiet title claims.[1] It is the elucidation the Eastern District of Oklahoma suggests it needs.

Defendant's counterclaim is filed under 28 U.S.C. Section 1331 – federal question on June 14, 2018 as a counterclaim/affirmative defenses to an action to "quiet title" the Nowlin federal Indian land. Thirty – days passed under 28 U.S.C. Section 1441 / 1447 (c) and therefore removal certified as complete and valid. District Court requested confirmation of its subject

[1] The Kiowa Tribe's interest or Indian interest (individual member has same rights as a tribe) precludes Defendants' condemnation claim as a matter of law (Marcia W Davilla et al).

Honor, there is title insurance.

THE COURT: Okay.

MR. PACEWICZ: And in anticipation of the settlement conference, I do have Mr. John Laird here, a representative of First American Title Insurance Company who would also have participated, or will participate if the settlement conference goes forward.

THE COURT: Where did he come from?

MR. PACEWICZ: Denver.

THE COURT: I apologize, sir. If the settlement conference does not go forward, I apologize if this was for nothing. I didn't have any other way to get this case on track. So, anyway, what is your plan, Mr. Pacewicz?

MR. PACEWICZ: Well, candidly, Your Honor, it was my intention if Mrs. Nowlin -- I don't know -- and apologies to her, I don't know if it's Nowlin or Nowlin. But if she did not show up today or if someone did not appear on her behalf, it was my intention to ask -- and particularly not appear for the settlement conference, it was my intention to ask the Court to dismiss the counterclaims asserted by Ms. Nowlin and by the trust with prejudice, and to enter judgment in the plaintiffs' favor on their quiet title action.

THE COURT: Okay. I would anticipate that's what you would have done. I've got to settle in my mind exactly

FROM: (541) 780-6859
Mary Nowlin
c/o Eugene Mailbox Inc.
4257 Barger Drive

Eugene OR 97402
US

SHIP DATE: 29JAN21
ACTWGT: 1.00 LB
CAD: 112761387/WSXI3500
DIMMED: 13 X 10 X 1 IN

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TO 10th Circuit Court Clerk
US Court Of Appeals
1823 Stout St
Byron White Us Courthouse
Denver CO 80257 (US)
(520) 207-4525 REF: 0120749
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