

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

**AMBER BROOKS,
802 Westwood Drive
Forest, Virginia 24501**

COURTNEY DERR
672 Longhollow Road
Buena Vista, Virginia 24416

RICHARD LAWHORN
14231 Kenmont Drive
Midlothian, Virginia 24501

BARBARA MACGREGOR
3224 Heartleaf Ave.
Panama City, Florida 32405

ANITA MAYO
905 Magnolia Ave.
Buena Vista, Virginia 24416

SUSAN PEACOCK
5611 Manor Drive
Woodbine, Maryland 21779

BOBBY THOMPSON, JR.
6320 Pamela Street
Huntersville, North Carolina 28078

BOBBY THOMPSON, SR.
1751 Maple Ave.
Buena Vista, Virginia 24416

SUSAN TYREE
104 Friendly Acres
Monroe, Virginia 24574

Plaintiffs,

V.

KENNETH BRANHAM,
142 Ridgecrest Drive
Monroe, Virginia 24574

ADRIAN COMPTON
2207 Beech Ave.
Altavista, Virginia 24517

AMBER FINK
2285 Cedar Gate Road
Madison Heights, Virginia 24572
Defendants.

COMES NOW the Plaintiffs, by counsel, and respectfully move this court for judgment and the requested relief against the Defendants on the grounds as hereinafter set forth:

TRIBAL MEMBERS

1. Susan Tyree is a Monacan Indian and a citizen of the United States who maintains a residence at 104 Friendly Acres, Monroe, Virginia, 24574.
2. Anita Mayo is a Monacan Indian and a citizen of the United States who maintains a residence at 905 Magnolia Ave., Buena Vista, Virginia, 24416.
3. Bobby Thompson Sr. is a Monacan Indian and a citizen of the United States who maintains a residence at 1751 Maple Ave., Buena Vista, Virginia.
4. Bobby Thompson Jr. is a Monacan Indian and a citizen of the United States who maintains a residence at 6320 Pamela Street, Huntersville, NC, 28078.
5. Courtney Derr is a Monacan Indian and a citizen of the United States who maintains a residence at 672 Longhollow Road, Buena Vista, Virginia, 24416.

6. Barbara Macgregor is a Monacan Indian and a citizen of the United States who maintains a residence at 3224 Heartleaf Ave., East, Panama City, Florida, 32405.
7. Amber Brooks is a Monacan Indian and a citizen of the United States who maintains a residence at 802 Westwood Dr., Forest, Virginia, 24501.
8. Richard Lawhorn is a Monacan Indian and a citizen of the United States who maintains a residence at 14231 Kenmont Dr., Midlothian, Virginia, 23113.
9. Susan Peacock is a Monacan Indian and a citizen of the United States who maintains a residence at 5611 Manor Drive, Woodbine, Maryland, 21779.
10. The Monacan Indians and Citizens of the United States identified in paragraphs 1-9 were listed as tribal members on the tribal rolls which were promptly submitted to the Department of the Interior when the Monacan Nation was given tribal recognition by an Act of Congress in 2018. These Tribal members were among the initial members of the Federally recognized Monacan Indian Nation.

SOURCE OF FUNDING FOR TRIBAL MEMBERS

11. The Native American Housing and Assistance Act of 1996, 25 U.S.C. §4101 et. seq. and similar United States Government grants, grant housing and related development funds to a Federally recognized tribe for the specific benefit of individual tribal members, which funds have been received by the tribe and not distributed to the individual members through actions of the Defendants against the will of the tribal government.
12. The Indian Health Service through the Snyder Act of 1921 23 U.S.C. 13 and subsequent legislation delivers health services to a federally recognized tribe for the specific benefit of

individual tribal members, which funds have been received by the tribe and not distributed to the individual members through actions of the Defendants against the will of the Tribal Government.

13. Title V of the Coronavirus Aid, Relief, and Economic Security Act (Cares) 42 U.S.C.

§801(a)(2)(B) granted federally recognized tribes funds for unbudgeted expenditures made in response to Covid 19, which funds have been received by the tribe and not distributed to the individual members through actions of the Defendants, against the will of the Tribal Government. American Rescue Plan Act of 2021, funds were granted to the Monacan Indian Nation to strengthen support for vital public services and help retain jobs, which funds have been received by the tribe and not distributed to the individual members through actions of the Defendants against the will of the Tribal Government.

14. BIA issues yearly funds to the tribe because they are a federally recognized tribe and in 2019

P.L. 638 Funding was provided to the tribe and has continued every year since. These funds were used by Defendants for purposes other than their intended purposes through actions of the Defendants, in direct contravention of tribal councils' directives.

15. Tribal revenues increased from around \$500, 000.00 in 2018 to over \$25 million dollars in 2020.

16. The Monacan Indian Nation has been awarded funding and benefits based in part upon the number of tribal members that were listed on the tribal role on the last day of the year of 2017, which total included the Plaintiffs, and such funding and benefits were increased by the presence of the Plaintiff's names on Tribal documentation.

17. The timely and certain receipt of federal funds for a particular purpose and intended for tribal members was addressed in 25 U.S.C. §5301-§5423 commonly known as the ISDA or Indian self-determination and Education Assistance Act, and tribes were given greater roles in the distribution of federal benefits and services including healthcare, education, ARPA funds, Cares Act funds, and, other social services provided by federal agencies like The Bureau of Indian Affairs, the Indian Health Service, and The Department of Housing and Urban Development. The Defendants actions have prevented the proper distribution of funds against the will of the Tribal Government.

BENEFITS DENIED

18. Plaintiff, Susan Tyree, at a minimum, has been wrongfully denied the payment of \$30,000.00 from HUD funds given for her benefit as a Tribal member and the payment of at least \$5,000.00 in health care benefits and \$1,000.00 for Cares Act relief given for her benefit, as a Tribal member for a total of \$36,000.00 as of the filing of this Complaint
19. Plaintiff, Bobby Thompson, Jr., at a minimum, has been wrongfully denied the payment of \$1,000.00 for Cares Act relief given for his benefit, as a Tribal member for a total of \$1,000.00 as of the filing of this Complaint.
20. Plaintiff, Bobby Thompson, Sr., at a minimum, has been wrongfully denied the payment of \$1,000.00 for Cares Act relief given for his benefit, as a Tribal member for a total of \$1,000.00 as of the filing of this Complaint.
21. Plaintiff, Courtney Derr, at a minimum, has been wrongfully denied the payment of \$1,000.00 for Cares Act relief given for her benefit, as a Tribal member for a total of \$1,000.00 as of the filing of this Complaint.

22. Plaintiff, Rick Lawhorn, at a minimum, has been wrongfully denied the payment of \$2,000.00 for Cares Act relief given for his benefit, as a Tribal member for a total of \$2, 000.00 as of the filing of this Complaint.
23. Plaintiff, Amber Brooks, at a minimum, has been wrongfully denied the payment of \$1,575.00 from HUD funds given for her benefit as a tribal member for a total of \$1,575.00 as of the filing of this Complaint.
24. Plaintiff, Barbara Macgregor, at a minimum, has been wrongfully denied the payment of at least \$5,000.00 in health care benefits and \$1,000.00 for Cares Act relief given for her benefit as a Tribal member, for a total of \$6, 000.00 as of the filing of this Complaint.
25. Plaintiff, Susan Peacock, at a minimum, has been wrongfully denied the payment of \$1,000.00 for Cares Act relief given for her benefit, as a Tribal member for a total of \$1,000.00 as of the filing of this Complaint.
26. Plaintiff, Anita Mayo, at a minimum, has been wrongfully denied the payment of at least \$40, 000.00 in health care benefits and \$2,000.00 for Cares Act relief given for her benefit, as a Tribal member for a total of \$42, 000.00 as of the filing of this Complaint.
27. Other Tribal Citizens are similarly situated and have been denied benefits in the same manner as described in this Complaint.

**THE DEFENDANTS ARE MERELY TRIBAL MEMBERS AND NOT TRIBAL
OFFICIALS**

28. In January 2018, The Monacan Nation was formally recognized by an Act of Congress which elevated the tribe from its former status as a registered nonprofit organization which it had become in 1993, to its present status as a federally recognized Native American Tribe.
29. Tribal Council has continued without interruption since 2018 in its role under the By-laws and today consists of Preston Griffith, Tribal Chief, Contessa Sancho, Tribal Assistant Chief, Carolyn Rogers, Tribal Treasurer, and Tribal Council also includes members Anita Mayo, Richard Lawhorn, Bobby Thompson, Jr., Roxanne Cullen, Jonathan Adcock, Roger Belvin, Peter Johns, Sr., Susan Peacock, Logan Jackson, and William Redcross, Jr.
30. The aforesated By-laws (Exhibit 1), are the foundational document of the Monacan Nation and the Tribal council, not the Chief, shall manage the business and affairs of the Monacan Nation (Article 7, sec. 1).
31. The By-laws were revised in December 2021 and these revised By-laws were received by the Bureau of Indian Affairs on January 28, 2022.
32. An election was held on January 15, 2022, pursuant to a resolution passed by tribal council (Exhibit II) and a new Chief, Preston Griffith and other tribal officers were elected to fill the position vacated by Kenneth Branham, who was ineligible to hold the post and who had been removed two times as chief by tribal council as stated herein.
33. Carolyn Rogers was elected tribal treasurer on January 15, 2022.
34. The results of the January 15, 2022 election were transmitted to the Bureau of Indian Affairs, who by its stated position (Exhibit III), has not taken any position regarding this internal matter affecting the Government of the Monacan Indian Tribe.

35. The Defendants are not Tribal officials as they hold no position consistent with tribal government By-laws.
36. The Defendants took steps to improperly and unlawfully prevent Plaintiffs from receiving Federal funds, which were given in part based on Plaintiffs being members of the Tribe and after their eligibility to receive the funds had been established.
37. Knowing that the funding and benefits described by the Plaintiffs herein were a part of the benefits specifically referenced by Congress in public law 115-121 Sec 503 (b) (2), the Defendants through their acts and omissions willfully and unlawfully denied these benefits to the Plaintiffs.
38. Kenneth Branham is a Monacan Indian and citizen of the United States who maintains a residence at 142 Ridgecrest Dr., Monroe, Virginia 24574.
39. Kenneth Branham claims to hold the position of Chief, but is not eligible to hold the post of chief as the By-laws only allow a person to be chief twice and Kenneth Branham had already been chief four times. His purported election in 2019 is thereby barred by the By-laws which are possessed by the BIA and declared by the BIA to be the tribal governing document.
40. The BIA never received a lawful certification of Kenneth Branham's purported election as chief in 2019.
41. Kenneth Branham, though never eligible to be Chief under the bylaws, was removed from his claimed position as Chief by a tribal council Resolution No. 21-1120-02 (Exhibit IV) because he refused to comply with tribal councils' lawful requests in compliance with Federal Law to develop a budget and account for all appropriations.

42. Kenneth Branham was removed for the second time from his claimed position as Chief, along with the removal of Adrian Compton, by the tribal forum on November 20, 2021 because he would not comply with tribal councils lawful demand to develop a budget, monitor appropriations, and the fact that he, in direct defiance of council's directive, expended tribal funds for the purchase of 111 Highview Drive, Madison Heights, Va., a property which was substantially overpriced, too small for tribal needs, and which would have required an environmental impact statement, which he never acquired.
43. Kenneth Branham expressly refused to comply with tribal councils' lawful demands concerning the use of tribal funds, did not follow proper tribal record keeping, closed tribal meetings to tribal members, and failed to comply with federal audit requirements as stated in federal law and seen as necessary by tribal council. The detailed reasons for this removal are set forth in a tribal resolution dated November 20, 2021, which is attached and marked as (Exhibit IV). The number of tribal members who voted to remove Kenneth Branham at the presentation of this resolution exceeded Kenneth Branham's vote total in his purported election of 2019.
44. Kenneth Branham improperly exercised control over the said funds, which were paid by the United States Government for the benefit of Tribal members and prevented their delivery to the Plaintiffs by action and inaction as stated in this Complaint.
45. Adrian Compton is not a Monacan Indian, being originally from Australia, and presently resides at 2207 Beech Ave., Altavista, VA., which is located in Campbell County.
46. Tribal council voted specifically disapproving Adrian Compton's employment as tribal administrator. Tribal council later voted again to remove him as tribal administrator.

47. Adrian Compton would not have passed a background check due to errors regarding his professional credentials and questions regarding his involvement with an unpaid multimillion-dollar health care verdict affecting Compton Fellers Pty Ltd TBA Medichoice.
48. Adrian Compton, through information and belief, has received more than \$300K on an annual basis and this salary and position were never approved by tribal council.
49. Adrian Compton improperly exercised control over the said funds which were paid by the United States Government for the benefit of Tribal members and prevented their delivery to the Plaintiffs by action and inaction as stated in this Complaint.
50. Amber Fink is a Monacan Indian and citizen of the United States who maintains a residence at 2285 Cedar Gate Rd., Madison Heights, Virginia 24572.
51. Amber Fink was improperly appointed Secretary and Treasurer in December 2021, by a group who was not Tribal council but who claimed to be tribal council though their composition did not conform to lawful tribal requirements regarding the proper number of tribal council members, and though they had not filled any lawful vacancy on the tribal council, nor had their nomination been conducted as required by the tribal law. Amber Fink has never been elected Secretary or Treasurer in a lawful general government election.
52. Amber Fink improperly exercised control over the said funds which were paid by the United States Government for the benefit of tribal citizens and prevented their delivery to the Plaintiffs by action and inaction as stated in this Complaint.
53. The Defendants took actions to single out particular tribal members and declare them to be ineligible for the receipt of tribal funds for reasons which violate federal law. Exhibit V is an email from Anita Mayo dated November 2, 2021, which informs appropriate Federal officials

of the Defendants wrongful actions which caused such a withholding of her benefits in violation of the language of Public Law Number 115-121. This action taken by the defendants violates federal law. The other plaintiffs and similarly situated tribal citizens had their benefits terminated for the same or similar reasons.

54. The Defendants caused funds whose source was the federal government or a specific purpose grant to be transferred to an entity or entities which were privately owned by one or more of the defendants, such as the Monacan Indian Nation Inc. account which is owned by private individuals and not the Monacan tribe, while at the same time failing to distribute or withholding sums that were due to tribal members, making those funds unavailable to pay benefits.
55. The Defendants prepared and disseminated reports declaring that the plaintiffs were not tribal members knowing that these reports would be relied upon to deny plaintiffs the benefits described in this complaint.
56. The Defendants took action to confuse the rights of the plaintiffs, or to misinform the plaintiffs of their rights to receive Cares Act or ARPA funds by refusing to take proper actions to inform the plaintiffs of the availability of the funds and obscuring their availability.
57. Tribal council attempted to stop the Defendants use of the BB&T bank account and any other bank accounts of the tribe by making direct communication with the financial institutions, but such institutions at the improper direction of the Defendants did not honor Tribal Council's request.
58. Over tribal council objection, more money was spent on the food bank employees and vehicles than was spent on the food bank, with non-Monacan's receiving more funding and benefits than Monacans.

59. HUD benefits directed by the Defendants favor non-Monacans by more than 50 percent, and tribal resources are being expended without tribal council approval in this respect.
60. At the same time that the Defendants were terminating proper payments to Plaintiffs, the Defendants were, without lawful approval, increasing their salaries, and receiving larger benefit checks than other tribal members including Plaintiffs from the heretofore referenced funds.
61. Such hefty increases in personal benefits received by the Defendants and the other improper expenditures stated herein, at the expense of the other tribal members including the Plaintiffs were accomplished in part by using funds which should have been paid over to the Plaintiffs.

LEGAL BASIS FOR PLAINTIFF'S CLAIM FOR INJUNCTIVE RELIEF

62. Public Law Number, (115-121 Sec. 503 (b)(2), The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, is the Act of Congress which gave formal recognition to the Monacan Nation. This Act recited a concise history of the Nation and stated that the Tribe **and its members shall be eligible for all services and benefits provided by the Federal government to federally recognized Indian Tribes.** (Emphasis added). The actions of the Defendants as stated herein violate the terms of the Act for reasons stated in this Complaint and entitle the Plaintiffs to relief.
63. Public Law Number 115-121 is the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, and this act is a law of the United States.
64. The complaint arises from the jurisdiction conferred on the United States District Courts by 28 U.S.C. Section 1331 to hear and decide all civil actions arising under the Constitution, laws, or treaties of the United States.

65. The Federal acts cited in paragraphs 11, 12, 13, 14 show that the funds in question originated from the Federal government and are part of the funds referenced in Public Law 115-121.
66. The Plaintiffs do not seek to maintain an action against the Monacan Indian Nation and have not named the nation as a Defendant in this action.
67. The Plaintiffs do not seek to maintain an action against Preston Griffith, the Monacan Chief, or Monacan Tribal council as named herein, and have not named them as Defendants in this suit.
68. 18 U.S.C Sections 648 ,652 ,653, and other statutes within 18 U.S.C. make it a crime to misappropriate, fail to properly deposit, or otherwise divert federal funds. These statutes demonstrate the interest of the United States Congress in preserving the integrity of Federal funds and funding.
69. The Federal funds which the Defendants interfered with as set forth in this Complaint were distributed based upon a head count of Tribal members and the Plaintiffs inclusion in this count increased the Federal disbursement by their *pro rata* portion.
70. This matter is properly before the Court as this matter involves the interference by the Defendants through individual and collective action, with the delivery of Federal funding and benefits granted to Plaintiff's by the Thomasina E. Jordan Indian Tribes of Virginia Recognition Act, Public Law 115-121 Sec 503(b)(2), which by the precise language of the Act grants an express and an implied right of action for the members of the tribe. The actions of the Defendants as stated herein are violations of Federal Law.
71. The scope of the Plaintiff's claims involves funding in excess of \$5,000.00 and the programs from which the funds originated generate at least \$10,000.00 in funding annually.

72. Injunctive relief is necessary to guarantee that the federal funds which were paid and delivered for the benefit of Plaintiffs are lawfully delivered to their proper recipients.
73. No adequate remedy at law exists, and the statutory provisions stated in this Complaint explicitly confer an entitlement upon the Plaintiffs. Unless injunctive relief is allowed in this Complaint there is no sufficient administrative means of enforcing the requirements regarding the entitlements against any person who interferes or prohibits their receipt.
74. Despite the duty of good faith and fair dealing owed by the Defendants to the Plaintiffs, the Defendants refused to allow said funds to be delivered to the Plaintiffs in their periodic amount, and/or terminated funds which had been previously approved and regularly paid, thereby breaching their duties to the Plaintiffs as fellow Tribal members.
75. The Defendants exercised improper control over funds received from HUD, ARPA, The Cares Act, Indian Health Services and the Bureau of Indian Affairs as otherwise referenced in this Complaint and prevented delivery of lawful portions of said funds to the individual tribal members, including Plaintiffs to whom they owed the utmost duty of good faith by virtue of Defendants exercising fiduciary responsibilities with respect to said funds.
76. The Defendants who were not Tribal Officials and who were acting contrary to Tribal Law, usurped the authority of lawful Tribal Officials and through acts and omissions diverted the funds heretofore described as designated for Plaintiffs and lawfully required to be paid to Plaintiffs to themselves or to other projects without Tribal Council approval in contravention of Public Law 115-121 Sec 503(b)(2).
77. The actions of the Defendants as stated herein constitute waste with respect to funds paid by the Treasury of The United States for the benefit of the Plaintiffs.

78. As a direct and proximate result of Defendants actions as stated herein Plaintiffs never received the funds referenced in this complaint which were due to them as Tribal members of the Monacan Nation.

WHEREFORE the Plaintiffs move this Court to declare the actions of the Defendants as set forth herein to be unlawful, and to issue an injunction against Defendants to enjoin them from taking any action or committing any omission which willfully causes Plaintiffs or any similarly situated Tribal member to fail to receive benefits originating from the United States Treasury or any Agency or Department of the United States Government which have been transmitted to any party, which benefits as set forth in this Complaint, or similar benefits, were due to be paid to Plaintiffs occasioned by their being members of the Monacan Indian Nation, a federally recognized tribe, and that the Defendants be further enjoined from preventing the Plaintiffs from otherwise exercising their rights with respect to their status in this regard as Monacan Tribal members together with Attorney fees and costs, and that this Court grant other and further relief as this Court sees fit to order.

Respectfully submitted this 18th day of July 2022

Respectfully submitted,

/s/ Joseph A. Sanzone

SANZONE AND BAKER, L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of July 2022, I electronically filed the foregoing Motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Greg Werkheiser, Esq., counsel for Defendants.

s/ Joseph A. Sanzone