



ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Nathan Anderson, Ryan Herrod, Wesley Montemayor, Leyahna Hicks, Malinda Noon, Inda McGrit, Jason Sawyer, Joyce Noon, Summer Barnes, Leeanna Tomah, Individually and as elected officials of the Thlopthlocco Tribal Town, a federally-recognized Indian Tribe,

Petitioners,

-vs-

THE HONORABLE LAWRENCE PARISH, District Judge of Okfuskee County, State of Oklahoma, and PLAINTIFFS holding themselves out at Thlopthlocco Tribal Town, a federally-recognized Indian Tribe In CASE NO. CJ-2025-79 in the District Court of Okfuskee County,

Respondent.

NO. 123548

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STATE OF OKLAHOMA
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**REAL PARTY IN INTEREST THLOPTHLOCCO TRIBAL TOWN
RESPONSE TO
AMENDED BRIEF IN SUPPORT OF PETITION SPECIAL APPEARANCE FOR
LACK OF SUBJECT MATTER JURISDICTION AND WRIT OF PROHIBITION**

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Real Party in Interest for Honorable Lawrence Parrish

NOVEMBER 17, 2025

**REAL PARTY IN INTEREST THLOPTHLOCCO TRIBAL TOWN
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Thlopthlocco Tribal Town, a federally-recognized Indian Tribe, as the real party in interest for Respondent, the Honorable Lawrence Parish, comes before the court and submits the following response to the Application and Amended Brief filed on November 14, 2025. (Group 2).

Respondent Thlopthlocco respectfully disputes the unverified allegations of Petitioners' Application, both here and in the district court. Thlopthlocco Tribal Town has had the same existing Business Committee ("existing Committee") with various replacements as members have resigned and left the Committee since 2007 ("existing Business Committee").

The Thlopthlocco Constitution provides that the Business Committee has plenary authority over tribal town affairs. Under the Thlopthlocco Constitution (Ex. 01), all governing authority of Thlopthlocco is vested in the Business Committee:

The Business Committee shall have power to appoint subordinate committees and representatives, to transact business and otherwise speak or act on behalf of the town on all matters in which the town is empowered to act now or in the future.

Ex. 01, Constitution, Article V, Section 7, p. 4.¹

Since 2007, the Thlopthlocco Tribal Town ("TTT" or "Thlopthlocco") through its existing Business Committee has acted on behalf of Thlopthlocco through its normal business activity, and in extensive tribal court litigation with Nathan

¹ Exhibits are contained in a separate Appendix.

Anderson, and federal court litigation with the Muscogee (Creek) Nation (“MCN”) dealing with the protection of its sovereignty. *Thlopthlocco Tribal Town v. Stidham*, 762 F.3d 1226 (10th Cir. 2014). This case is just a continuation of various efforts by Anderson to hijack the Thlopthlocco government.²

Some of these facts are taken from the *Stidham* litigation which grew out of an earlier dispute with Anderson who was elected Mekko in 2007. After serving four months, Anderson conducted a *coup d'état* of the tribal government and declared all other Business Committee offices vacant claiming that the tribal election had ineligible voters.³ He then used Article V, Section 6 of the Thlopthlocco Constitution to appoint his friends and family to a rump Business Committee. (Constitution, Ex. 01, p. 4). Anderson's group immediately set out to seize control of Town bank accounts and its Casino. With his latest attempt, he has made several efforts to obtain control of Thlopthlocco's accounting services and bank accounts.

In 2007, the elected Business Committee and advisors came together, stripped Anderson of his authority, approved a consent to jurisdiction and limited

² Anderson has previously attempted to call “elections” without any official authority. (Ex. 09, MVSPPOKE News 10/01/24; Ex. 10, MVSPPOKE News 10/15/24).

³ In actuality, it was Anderson who was not properly elected. The Thlopthlocco Constitution requires a majority of the votes cast. (Constitution, Ex. 01, Art. V, Section 5, p. 4)(“Election shall be by standing vote and a majority of the votes cast shall determine the action thereon.”). Anderson was announced the winner with a plurality of since the moderator failed to call for a runoff. (Ex. 02, Minutes of Tribal Election, p. 2). Thlopthlocco routinely video recorded its elections.

waiver of sovereign immunity and filed suit in the MCN courts. (Resolution, Ex. 03, Resolution; Ex. 04). They also initiated a complaint to the Tribal Grievance Committee under Article VI of the Thlopthlocco Constitution. (Constitution, Ex. 01, p. 4). Anderson was successfully removed by a grievance procedure in which the entire Town had a chance to attend conducted on July 28, 2007. Thlopthlocco filed a Notice of Internal Resolution to the MCN courts seeking dismissal. (Notice Ex. 05). The internal resolution was ignored by the MCN courts which allowed Anderson to file cross-claims to sue to recover his office even though properly removed by the internal Grievance procedure.

The existing Committee eventually initiated federal litigation. In its decision, the Tenth Circuit appeared to accept the existing Committee as the governing body of the Tribal Town and remanded to exhaust tribal remedies in the MCN courts about, among other issues, the refusal of the MCN to recognize the ability of a sovereign to withdraw from litigation consistent with *Beers v. Arkansas*, 61 U.S. 527, 529 (1857) ("*Beers*"). *Thlopthlocco v. Stidham*, 762 F.3d at 1240.

After remand and extended delays⁴ in tribal court of almost 6 years, the

⁴ Groups 1 and 2 both complain that elections have been delayed. This was at the direction of the Tenth Circuit during the sovereignty litigation and the delay were occasioned by year long delays in the MCN district court:

Thus, we expect the tribal court to reach a final decision on the jurisdictional issue before it considers ordering an election. Accordingly, the Tribal Town will have the opportunity to exhaust its tribal court remedies and return to federal court before the tribal court has taken an action that the Tribal Town might not be able to challenge effectively.

MCN Supreme Court dismissed Anderson's cross-claims and recognized

Thlopthlocco's sovereign immunity under the control of the existing Committee:

The Appellant is entitled to sovereign immunity in the Courts of the Muscogee (Creek) Nation. The Appellant, via its unique status under Muscogee tribal law, is also able to voluntarily submit to the jurisdiction of the Muscogee (Creek) Nation Courts.

Thlopthlocco Tribal Town v. Anderson, 2022 Muscogee Creek Nation Supreme LEXIS 1, 30.⁵

By any reasonable interpretation of Rule 30 of the District Courts of Oklahoma, the MCN decision is entitled to full faith and credit as to its determination that the existing Committee is the governing body of the Tribe.

Ironically, because the Tenth Circuit held that Thlopthlocco is not a member of the MCN and is a separate federally recognized tribe, the initiation of litigation in the "foreign" MCN courts allowed it to make rulings about Thlopthlocco internal tribal disputes without regard to concerns about subject matter jurisdiction.⁶ Anderson and his group themselves sought cross-claims from the MCN courts.

In its decision the MCN Supreme Court mooted the *Beers* question. On appeal

Thlopthlocco v. Stidham, 762 F.3d 1241, n. 8.

⁵ Respondents do not have access to any Westlaw citation for this case.

⁶ See *Thlopthlocco v. Stidham*, 762 F.3d at 1233:

" . . . our cases recognize the legal separation of the Tribal Town and the Muscogee Nation. "While the Creek Nation has jurisdiction to regulate its own citizens, the Thlopthlocco is an independent tribal entity that elects its own government pursuant to its own Constitution and is not itself a citizen of the Creek Nation."

from the MCN Supreme Court, the Federal district court said the case was not moot, applied *Beers* and granted Thlopthlocco declaratory judgment that it could withdraw a consent to jurisdiction. *Thlopthlocco Tribal Town v. Wiley*, 710 F. Supp. 3d 1043, 1062 (N.D. Okla. 2023). However, the MCN appealed and the Tenth Circuit determined the question of *Beers* was moot and dismissed. *Thlopthlocco Tribal Town v. Wiley*, No. 24-5011, 2024 WL 5052986 (10th Cir. Dec. 10, 2024). Thus, MCN's refusal to apply *Beers* is problematic in that the MCN does not accord Thlopthlocco the same respect to which sovereigns are entitled in other courts.

While the existing Committee is working toward resuming its quadrennial elections, the "elections" Groups 1 and 2 claim they conducted were just free wheeling because the existing Committee did not set either election. Just as the United States has only one President at a time, there can be only one Business Committee at a time and the existing Business Committee has an essential role in the conduct of the next tribal election because of its plenary authority under the Thlopthlocco Constitution.

Besides the fact that these elections were not set by the existing Committee, they also were not conducted by the Election Committee appointed by the existing Committee. Nor were they conducted in accordance with the Election Ordinance adopted by the existing Committee on July, 2022. (Ex. 06).

There were other noncompliances. Anderson's "notice" of an election meeting was improper. The notice published in the paper had the wrong date of January 22, 2025 instead of the actual date of February 22, 2022. (Ex. 07).

Brent Smith's Group 1 "election" was conducted after adjournment of a Thlopthlocco Quarterly Meeting.⁷ There was no notice of an election on the agenda of any election meeting. (Ex. 08), essentially disenfranchising all of the approximately 1,000 tribal members except the 30 to 35 who remained after the quarterly meeting.

Neither Anderson or Smith had an official membership list maintained by the Thlopthlocco Membership Committee.

Finally, Brent Brown is still listed as Mekko on the BIA official site of tribal governments. (Ex. 11, Screenshot-BIA Website).

THLOPTHLOCCO HAS SOVEREIGN IMMUNITY FROM THIS SUIT

When this suit was filed in the State district court, Thlopthlocco included a limited waiver of sovereign immunity that set out the parameters of the litigation:

BE IT FURTHER RESOLVED that the Thlopthlocco Tribal Business Committee does hereby waive its sovereign immunity on the very limited basis stated herein only for the purposes of adjudicating this dispute only, only claims brought by the Plaintiff, Thlopthlocco Tribal Town, and only for injunctive and declaratory relief. This waiver of immunity shall not include counterclaims, cross-claims, election disputes or any claim involving quo warranto.

As a sovereign, Thlopthlocco is entitled to limit its waiver of sovereign immunity and avoid counterclaims. *See, Okla. Tax Comm'n v. Citizen Band Potawatomi Indian Tribe*, 498 U.S. 505, 509, 111 S. Ct. 905, 909 (1991) ("We held that a tribe does not waive its sovereign immunity from actions that could not

⁷ The quarterly meeting is a meeting of the Business Committee. (Constitution, Ex. 01, Art. IV, Sec. 2). Thus, when the Business Committee adjourned, it was over.

otherwise be brought against it merely because those actions were pleaded in a counterclaim to an action filed by the tribe. . . . 'Possessing . . . immunity from direct suit, we are of the opinion [the Indian nations] possess a similar immunity from cross-suits.'"). There are some exceptions to limited waivers of sovereign immunity, not relevant here.

THLOPTHLOCCO IS LITIGATING A CIVIL TRESPASS, NOT AN INTERNAL MATTER

Thlopthlocco Constitution has no judicial branch. This arose from thinking at the time of passage of the Oklahoma Indian Welfare Act [15 U.S.C.S. § 501-09] ("OIWA") that all tribal courts were abolished by the *Curtis Act*. *Curtis Act of 1898*, c. 517, 30 Stat. 495. Like Thlopthlocco, tribes seeking federal recognition under OIWA in the 1930's and subsequent, did not include a judicial system in their constitutions.

This changed in 1988 after *Muscogee (Creek) Nation v. Hodel*, 851 F.d 1439 (1988). The court concluded that passage of the OIWA was an implied repeal by implication of the *Curtis Act*.

Thlopthlocco still does not have a court, but its recent history litigating in the MCN courts and subsequent difficulties illustrated in *Thlopthlocco v. Stidham*, and the expectation of an upcoming election has brought to the forefront the implementaton of a judiciary and a law enforcement department. Thlopthlocco has had several contentious elections in the past which resulted in litigation.⁸

⁸ During oral argument in *Thlopthlocco Tribal Town v. Wiley*, No. 24-5011, 2024 WL 5052986 (10th Cir. Dec. 10, 2024), the MCN counsel suggested that

Thlopthlocco has sought and obtained assistance from the BIA to establish a civil and criminal code and judiciary and a commissioned police department instead of armed security.

Thlopthlocco has hired a single district judge and is looking for appellate judges as it waits for BIA assistance to begin implementation of a court system.

The plenary authority of the existing Committee under the Thlopthlocco Constitution would logically include the power to set elections. If not, then under the interpretation of the Defendants in the trial court, ten tribal members spontaneously meeting under a street light can decide who gets what office and stymie MCN law enforcement and paralyze Thlopthlocco sovereign immunity.

The gravamen of the TTT lawsuit is the removal of trespassers from tribal property and cessation of the physical assaults and threats of Group 1. Both Groups 1 and 2 have attempted to seize control of Thlopthlocco bank accounts and other computer access.

The "bogus" elections of Group 1 and Group 2 have no validity and a careful reading of the consent to jurisdiction attached to the Petition shows any "alleged" internal matters were settled by the existing Committee and are not asked to be decided by the court. (Ex. 12, Consent to Jurisdiction). This determination by the Thlopthlocco Business Committee is entitled to deference. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 66, 98 S. Ct. 1670, 1681 (1978) ("Nonjudicial tribal institutions have also been recognized as competent

Thlopthlocco should get its own court.

law-applying bodies.”).

Lacking a judiciary and a police force, Thlopthlocco is looking for a method to enforce its decisions in much the same way foreign judgments can be accorded full faith and credit without dwelling on the merits of the underlying judgment.

Petitioners’ suggestions about “internal tribal matters” are illusory in this case. The existing Committee, resident since 2007, did not recognize either election. Internal decisions had already been resolved as noted in the consent to jurisdiction.

The state district court lawsuit was initiated only after a violent overthrow of Thlopthlocco administrative offices by Brent Smith’s Group 1 where forced entry was made into some buildings and regular Thlopthlocco employees were threatened with physical harm if they did not leave the premises. Smith also “seized” control of the Thlopthlocco Casino and “fired” the manager, who continued to manage and operate the Casino from a remote location.

In the district court, the evidence will show that after threats of physical harm to employees, some accompanied by the presence of guns, the Business Committee sent all employees home for their safety and the Thlopthlocco Gaming Commissioner issued a closure order of the Casino, the financial lifeblood of the Tribal Town, to avoid violations of regulations of the National Indian Gaming Commission (“NIGC”). (Petition filed in the District court on 10/27/2025). Smith resisted the closure order. (Ex. 13, Casino Facebook Post).

Smith roamed the property with a locksmith entering many locations where private information about membership and gaming employees was kept. It is likely Smith attempted to rob the vault in the Casino. (Ex. 14 MVSKOKE Media, 11/09/2025). During the effort, two of three secure doors to the vault were penetrated. (Ex. 15). Smith and his group have refused to obey the temporary restraining order and continue in physical possession of the Tribal complex.

Both the Okfuskee County Sheriff's office and the MCN Light Horse force have so far refused to respond to the takeover despite repeated requests.⁹ The Tribal complex including the casino are currently "no man's lands" where the only law enforcement might be fairly described as "jurisdiction of the jungle" where thuggery controls.

Based on its invalidation of the elections, the Thlopthlocco Business Committee approved a consent to jurisdiction and limited waiver of sovereign immunity and filed a civil trespass action to eject the trespassers.

CAYUGA NATION IS NOT APPLICABLE TO THIS CASE

⁹ There was an initial conversation with Okfuskee County District Attorney Max Cook and Assistant Andrew Goforth which included discussions of the preparation of a Memorandum of Understand ("MOU"). Thlopthlocco's counsel submitted a proposed MOU. Since then there have been repeated phone calls and emails without response.

A meeting between Mekko Brent Brown and MCN Public Safety Commissioner also included an offer of a MOU to be worked out, but since the attempted penetration of the Casino vault, nothing further has been received. The MCN Lighthouse surround the Casino and the Administrative Offices with "crime scene" tape, chained and sealed them shut and began an investigation. (Ex. 14, MVSKOKE Media, 11/08/20225).

Even so, neither law enforcement groups have repelled the invaders who freely occupy the tribal premises, both tribal and fee lands.

Petitioners submit *Cayuga Nation v. Campbell*, 34 N.Y.3d 282, 284, 117 N.Y.S.3d 105, 107, 140 N.E.3d 479, 481 (2019) as authority for a writ of prohibition claiming that internal tribal disputes are not cognizable in federal or state courts. Of course, an interpretation of federal law by another state judiciary is not binding on Oklahoma courts.

Anderson brought cross-claims against Thlopthlocco in litigation in the MCN courts over an internal dispute of his removal as Mekko although Thlopthlocco was not a member of the MCN. This is because Thlopthlocco was there by consent. (Ex. 04, Resolution). A sovereign that can't consent to jurisdiction in an external court is not very sovereign.

Here, there are judicial findings that the existing Committee is the only governing body of Thlopthlocco. Possessing plenary power over all tribal matters, it is an essential player in the enforcement of its constitutional authority including the selection of successors to its Business Committee. Individual tribal members with no official capacity in the tribal government cannot exercise tribal town authority and a "call" for elections can only be made by the existing Business Committee.

In *Cayuga*, the membership dispute arose among the members of the governing body, not as here between governing individuals and nongoverning tribal members. In *Cayuga*, there was no indication that any of the parties consented to jurisdiction except to their voluntary submission to the tribunal. The basis for state court jurisdiction is a federal statute exclusive to New York Indians

that allowed for adjudication of civil matters under New York law. 25 U.S.C. §233. Tribes could declare tribal enactments to be submitted to the Secretary of the Interior that would govern tribal cases thereafter.

Under §233, it appears that the creation of jurisdiction in the New York courts by Congress was without a waiver of sovereign immunity. "It is settled that a waiver of sovereign immunity "cannot be implied but must be unequivocally expressed." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98 S. Ct. 1670, 1677 (1978). There was no indication in §233 that sovereignty was waived.

But a bogus elections is not an "internal dispute" but an ordinary case of trespass. And Thlopthlocco has sought access to the state district court to enforce trespass rights after consenting to jurisdiction.

This is not a case where the exercise of "state-court jurisdiction over Indians or activities on Indian lands would interfere with tribal sovereignty and self-government . . ." *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 15, 107 S. Ct. 971, 976 (1987). In fact, with the consent of Thlopthlocco, the exercise of state court jurisdiction in this instance protects tribal sovereignty.

CONCLUSION

Lacking a police department, after a consent to jurisdiction, Thlopthlocco filed a civil trespass action to repel trespassers on its property. Indian tribes appear in state and federal courts regularly to seek the benefit of state law. If this is not permitted, tribes, such as Thlopthlocco would be left helpless as soon as any trespasser suddenly claims it is the successor government.

Even if it might be said that bogus elections are an “internal tribal dispute”, Thlopthlocco, acting in its legislative capacity, resolved the internal dispute before it sought assistance from the State courts. Having no police department, and getting no help from local county law official or the Light Horse law enforcement, Thlopthlocco submitted a limited consent to jurisdiction to obtain the enforcement of its legislative enactments.

As indicated, Thlopthlocco still awaits a Memorandum of Understanding that could take a variety of forms, including, for example, a waiver of sovereign immunity to allow the State or the MCN to exercise criminal jurisdiction on its tribal land until it can complete adoption of a criminal and civil code and the establishment of a judiciary and law enforcement force.

The Petition should be denied.

Dated this 17th day of NOVEMBER, 2025.

Respectfully submitted,



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Real Party in Interest for Honorable Lawrence Parrish

CERTIFICATE OF SERVICE

This is to certify that I delivered a copy of this instrument to which this certification is attached was sent by email to:

Jon Velie
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Email: jon@velielaw.com

on this 17th day of November, 2025.



Jerry Colclazier