

Filing fee received.

In the United States Court of Federal Claims

JOSHUA LUGER, AND	)	CASE NO. <u>26-30 C</u>
WARRIOR WASH & EMPORIUM, LLC,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
UNITED STATES OF AMERICA;	)	
	)	
	)	
Defendant.	)	

COMPLAINT

Plaintiffs, Joshua Luger and Warrior Wash & Emporium, LLC, for their Complaint state and allege as follows:

PARTIES

Plaintiffs

1. Joshua Luger (Luger), Plaintiff, is a resident of the City of Bismarck, Burleigh County, North Dakota and an enrolled member of the Standing Rock Sioux Tribe, a federally recognized tribe.
2. Warrior Wash & Emporium, LLC (Warrior Wash), Plaintiff, is a limited liability company formed under the laws of the State of North Dakota, of which Luger was and/or is, at all material times for the purposes of this action, the sole member/owner of Warrior Wash. Warrior Wash is a car wash and convenience store which operates on fee land within the City of Fort Yates, North Dakota, which lies within the exterior boundaries of the Standing Rock Sioux Tribal Reservation (SRSTR).

Defendant

3. The United States Department of the Interior is an agency of the United States and responsible for the management of most federal lands, including Indian country, within the United States. The Interior Department, through the Bureau of Indian Affairs (BIA), is responsible for

providing law enforcement protection on tribal lands/Indian country, including the SRSTR. At all material times for the purposes of this action, Lt. Murray Spence (Spence) and Officer Waylon Bad Hand (Bad Hand), were law enforcement officers of the Bureau of Indian Affairs (BIA), U.S. Department of The Interior acting within the scope of their office.

4. Defendant United States of America (United States) is sued for the unconstitutional Fifth Amendment seizure and/or taking of property owned by Luger and/or Warrior Wash which was caused by the acts or omission of its employees, Spence and Bad Hand.

JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1491(a)(1) because Plaintiffs allege violations of the United States Constitution, by and through officers Spence and Bad Hand engaging in an unconstitutional Fifth Amendment takings.
6. Plaintiffs presented their claims in writing via a letter dated July 16, 2024 to the Defendant United States' Department of Interior pursuant to 28 U.S.C §§ 2401 and 2675. See, **Exhibit #1**. The United States received this letter on or about July 16, 2024. Plaintiffs did not receive any written response back from the United States as to the Plaintiffs' claims. The United States' six months for consideration exhausted on or about January 16, 2025, making this action timely.
7. Venue is proper in The Court of Federal Claims pursuant to 28 U.S.C. § 1491(a)(1) as Congress has conferred onto this Court the jurisdiction over those claims of a citizen's property being wrongfully taken by the United States.

FACTS

8. Luger is an adult that owns and operates businesses within the Standing Rock Sioux Tribal Reservation (SRSTR). One of those businesses is Warrior Wash. Warrior Wash was incorporated under the laws of North Dakota by and through the Office of the North Dakota Secretary of State in or about February 2021. At all material times, Luger was the sole member/owner of Warrior Wash, and Warrior Wash was and is in good standing. Warrior Wash is a car wash and convenience store which operates within the City of Fort Yates, North Dakota, which lies within the exterior boundaries of (SRSTR).
9. Warrior Wash also sells industrial hemp products that are legal under the 2018 Federal Farm Bill (Agricultural Improvement Act of 2018 P.L. 115-334 and/or 7 U.S.C. § 1621 *et seq.*)

and Title 43 of the Standing Rock Tribal Code. Title 43 of the Standing Rock Sioux Tribal Code of Justice was enacted by the Standing Rock Sioux Tribal Council and signed into law by then Tribal Chairman Mike Faith on or about August 3, 2021. Warrior Wash began selling industrial hemp products without incident for approximately 18 to 24 months before these events giving rise to this action occurred.

10. In or about October 2023, Luger, for one of his other business ventures within the City of Fort Yates, North Dakota, obtained a liquor license from Sioux County and the State of North Dakota. Luger was not required to have, and did not obtain, a liquor license through the Standing Rock Sioux Tribe. Shortly thereafter, in or about October 2023 through December 2023, Bad Hand and/or Spence began investigating Warrior Wash and/or Luger regarding the sale of industrial hemp.
11. In late November 2023 or early December 2023, Warrior Wash placed a purchase order with its wholesale supplier for industrial hemp product which was received before December 21, 2023.
12. On or about December 21, 2023, BIA law enforcement, led by Spence, raided Warrior Wash and seized the store's industrial hemp products. The value of the amount of industrial hemp products seized was approximately \$29,778.98. See, **Exhibit #2**. This seizure by BIA law enforcement occurred despite Luger having a copy of Title 43 of the Tribal Code within Warrior Wash along with other documents noting that the industrial hemp is a legal product. Neither Spence nor the other BIA law enforcement officers seized any illegal controlled substances from the Warrior Wash during this raid.
13. Between on or about December 21, 2023, until on or about February 2, 2024, when Luger first became aware of a criminal complaint lodged against him in SRST Court, his business operations at Warrior Wash and other businesses he owns in or about Fort Yates, North Dakota and/or Sioux County were disrupted by the unlawful seizure of the lawful industrial hemp product. This caused Luger to suffer economic damages to Warrior Wash and/or his other business which include, but are not limited to, lost profit and lost productivity.
14. After learning about the SRST Criminal Complaint for the allegation of Criminal Sale of Drugs (Case No. 23-336880) in or about early February 2024, Luger was forced to hire legal counsel to defend on this groundless, pretextual, and "law-fare" charge alleged by Spence and/or Bad

Hand. This caused Luger to suffer economic damages which included, but are not limited to, substantial attorney fees.

15. Upon information and belief, Spence and/or Bad Hand, failed to follow internal BIA, Office of Justice Services guidelines to either field test and/or submit for scientific testing any of the industrial hemp product seized from the Warrior Wash on or about December 21, 2023. Failure of these officers to do so was and/or is contrary to internal BIA policy and/or protocol for the handling of items alleged to be illegal controlled substances. Thus, amounting to an utter lack of probable cause to charge Luger in Tribal Court with Criminal Sale of Drugs.
16. On or about May 10, 2024, Special Prosecutor, Thearsa Maule (Special Prosecutor Maule), sent Luger's attorney and Tribal Clerk Ridley an email and attached the Motion for Dismissal of the lone charge against Luger. See, **Exhibit #3**. Special Prosecutor Maule dismissed the lone charge against Luger, based on testing samples Luger's attorney supplied Special Prosecutor Maule which concluded the product was indeed industrial hemp product as it was labeled and sold as, and due to the fact that Spence and/or Bad Hand had never properly submitted the alleged contraband for independent scientific testing despite it being the policy and protocol of the BIA to do so. Special Prosecutor Maule also instructed Tribal Clerk Ridley to remove the case from the Court's calendar now that the case was being dismissed.
17. On or about Monday, May 13th, 2024, Special Prosecutor Maule emailed Spence and instructed him to immediately return the seized product in the raid from on or about December 21, 2023. See, **Exhibit #4**.
18. On Monday, May 13th, 2024, Luger personal appeared at Tribal Court in Ft. Yates to recover the seized property. Luger was directed to the law enforcement center and completed a request for return of property form. Tribal Prosecutor Alkrie then opposed the property being returned to Luger. See, **Exhibit #5**. Luger later learned that on or about May 14th, 2024, Tribal Judge Michael Swallow however approved and signed an Order that required Luger's property be returned. See, **Exhibit #5**. In addition, on or about May 16th, 2024, Luger secured the signature of Special Prosecutor Maule on a new return of property form approving the return of the seized property. See, **Exhibit #6**.
19. On or about Monday, May 20th, 2024, Luger again attempted to recover his seized property without any success. Luger again went to the BIA law enforcement center in Ft. Yates, North Dakota, and Luger spoke to a BIA employee about the property being returned.

20. This BIA employee Luger spoke to indicated that both Spence and/or Bad Hand were adamant that they were not going to release Luger's seized property to him. It was apparent to Luger that the message from this BIA employee was that these two BIA law enforcement officers, Spence and Bad Hand, had made up their minds to disregard the Court's Order and Special Prosecutor Maule's instructions and they were not going to release the seized property to Luger "come hell or high water."
21. Luger then availed himself to Tribal Court and promptly filed a motion to return seized property on or before the end of May 2024. On or about June 10, 2024, Tribal Court Judge Michael Swallow issued an Order of Dismissal as to Luger's Motion for return of property on the basis that the Tribal Court lacked jurisdiction over the federal government.
22. The industrial hemp product Luger and/or Warrior Wash ordered from its wholesale supplier has a shelf-life of approximately six (6) months. With the brazen disregard illustrated by Spence and/or Bad Hand in both disregarding the directives of Special Prosecutor Maule and the initial Orders of Tribal Judge Michael Swallow, Luger's and/or Warrior Wash's industrial hemp product had become worthless, rendering is unsuitable for sale.
23. Warrior Wash suffered lost profits from this nearly six (6) month ordeal of the weaponization of the Tribal criminal justice system in the amount of nearly One Hundred Thousand Dollars (\$100,000.00).
24. There have not been any further criminal prosecutions brought against Luger since the dismissal of the lone tribal charge against him back on or about May 10th, 2024.
25. At no time has the BIA, Spence, and/or Bad Hand commenced forfeiture proceedings for the industrial hemp product owned by Luger and/or Warrior Wash.
26. By defending against Tribal Criminal Case Number 23-336880, Luger incurred economic damages including, but not limited to, substantial attorney's fees.
27. By defending against and enduring Tribal Criminal Case Number 23-336880, Luger suffered non-economic damages including, but not limited to, emotional distress, humiliation, harm to reputation, worry, anxiety and sleepless nights.

**FIRST CLAIM FOR RELIEF:
UNCONSTITUTIONAL TAKING OF PROPERTY**

28. Plaintiff hereby incorporates Paragraphs 1 through 27 as though set forth herein.

29. By and through their conduct, as described herein, Defendant is liable to Luger and/or Warrior Wash for having committed an unconstitutional taking of property, namely the legal industrial hemp product seized from the Warrior Wash on or about December 21, 2023.
30. Defendant was without probable cause to seize this property from Luger and/or Warrior Wash in the first place on or about December 21, 2023. That the facts and circumstances were such that no trained law enforcement officer would have or should have believed there was sufficient probable cause to seize the industrial hemp product belonging to Luger and/or Warrior Wash.
31. Defendant, even assuming it had probable cause to seize this property from Luger and/or Warrior Wash on or about December 21, 2023, had a duty to return the property to Luger and/or Warrior Wash once the dismissal of the lone tribal court charge against Luger was entered on or about May 10th, 2024. Contrary to that duty, Defendant, without probable cause and without justification, refused to return Luger and/or Warrior Wash's property despite there not being any further charges brought against Luger.
32. Upon the entry of the dismissal in Luger's favor on or about May 10th, 2024, Luger and/or Warrior Wash had a constitutionally protected Fifth Amendment right to be free from unlawful taking of property after it was no longer needed from criminal proceedings and to be justly compensated for property taken by the Government. The amount of property unlawfully seized (industrial hemp product) from Luger and/or Warrior Wash totaled approximately \$29,778.98.
33. As a direct and proximate result of the Defendant's misconduct and abuse of authority stated above, Plaintiffs sustained damages, economic and non-economic, including, but not limited to, substantial attorney's fees, emotional distress, humiliation, harm to reputation, worry, anxiety, sleepless nights, lost product/inventory, lost earnings, and lost productivity.

DAMAGES

34. Plaintiff incorporates Paragraphs 1 through 33 as if fully set forth herein.
35. Defendant is liable for the damages detailed herein in committing this unconstitutional taking of property, aiding or encouraging the unconstitutional taking of property, ratifying or adopting the unconstitutional taking of property for their benefit, and as a consequence of the indivisible injuries suffered by Plaintiffs.
36. As a direct and proximate result of the Defendant's acts and omissions as alleged in the claims for relief and detailed herein, Plaintiffs suffered economic and non-economic damages.

STATE OF NORTH DAKOTA)

COUNTY OF BURLEIGH)

VERIFICATION

Joshua Luger, individually and as the sole member/owner of Warrior Wash and Emporium, LLC, being first duly sworn, deposes and says that he is the Plaintiff in the above-entitled action; that he has read the Complaint as set-forth above, knows the contents thereof and that the same are true of his own knowledge, except as to those matters therein stated upon information and belief, and as to those matters he believes the same to be true.

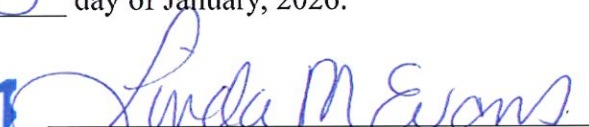
Dated this 5 day of January, 2026.



Joshua Luger, individually and
As the sole member/owner of Warrior Wash
and Emporium, LLC

Subscribed and sworn to before me this 5th day of January, 2026.





Notary Public
County of Burleigh, State of North Dakota

PRAYER

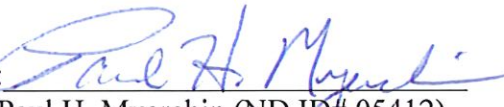
WHEREFORE, Plaintiffs demand judgment against Defendant, as follows:

1. Declare a taking and award money damages for the value of the property taken;
2. For special damages as may be shown and for general compensatory damages, as economic and non-economic damages as may be fixed by the Court;
3. For costs, disbursements, and reasonable attorney fees in this action;
4. All costs, disbursement, and reasonable attorney's fees incurred in defending Criminal Case No. 23-336880;
5. A total award of money damages in excess of \$250,000.00; and
6. Award such other and further relief as this Court may deem appropriate and equitable.

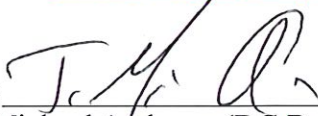
Dated this 5th day of January 2026.

Respectfully Submitted,
**BORMANN, MYERCHIN, ESPESETH
& EDISON, LLP**

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