

BARROW & GRIMM



United States District Court

Plaintiffs

- Cora Jean Jech
- Charles Tillman
- Dudley Whitehorn
- Joe Hall
- Joanna Barbara
- R.E. Yarbrough
- Cody Tucker
- John Johnson

Defendants

- United States of America
Department of the Interior
- Ken Salazar
Secretary of Interior,
Bureau of Indian Affairs
- Larry Echohawk, Assistant
Secretary, Indian Affairs
- 09-CV-818-TCK-TLW



Purpose of the Lawsuit

- The BIA is negligent
- Negligent in the trust duty assigned in the 1906 Act.
- Refusing to assist in the election of 2006
- Failing to inform of an available appeals process to interested parties who requested assistance in the election.
- Recognizing the new Osage Nation as the governing body of the Osage Mineral Estate.



Resulting in Harm to Annuitants

- Resulting in the Osage Mineral Estate governing without a Chief and Assistant Chief elected by Shareholders only.
- Resulting in placing the Osage Mineral Estate in jeopardy.
- Resulting in the Hostile Takeover of the Osage Mineral Estate.



Further Harm

- Resulting in confusion, worry and fear for the Osage Shareholder Annuitants who are mostly elderly and dependent on their inheritance, their share of the mineral estate.
- Resulting in exponential legal costs to the annuitants
- Resulting in the diminishment of a valuable vested property interest granted by the U.S., the right to control the Mineral Estate





The Law is on the Shareholders Side

STRONG POINTS OF THE CASE



BIA INACTION RESULTS

Results of Inaction

- The Mineral Estate is now subject to the laws of the Osage Nation.
- The officials of the Osage Nation were elected by non-shareholders.
- Property Rights may be summarized as a complete loss of control over the Mineral Estate.

Where did the BIA Fail?

- BIA refuses to recognize the Mineral Estate as independent of the Osage Nation.
- BIA ignores that the 1906 Act governs the rights of headright owners and the governance of the Mineral Estate.
- BIA ignores rights.



Interested Parties Sought Assistance from the BIA

- The BIA denied several requests by concerned headright owners for an election for the governing body of the Mineral Estate.
- Letters denying assistance from the BIA were received from the lowest level of the BIA to the highest ranking official of the BIA, the Assistant Secretary of Indian Affairs.
- Denials were definitive and unwavering indicating that exhaustion would have been ineffective.



Are You Protected by Law?

- Shareholders Attorney Points out to the Court:

(Case Law)

The 10th Circuit notes that where the agency (BIA) has repeatedly stated its position and shown no signs of a willingness to reconsider, exhaustion would be futile.



Furthermore

- *Well-settled federal law provides that letters stating settled agency positions from which legal consequences flow are final agency decisions subject to judicial review under the Administrative Procedure Act (APA).*



Therefore

- *It is clear that numerous letters from the BIA express settled BIA positions and the legal consequence of those positions occurred when the shareholders were stripped of their right to elect the governing body of the Mineral Estate in accordance with the 1906 ACT and Code of Federal Regulations.*



MORE LAW

- The New Osage Nation Constitution assumes control over the Osage Mineral Estate in ERROR.
- The laws of the U.S. grant the rights to Shareholders that they seek to enforce in this action; which cannot be rescinded by a *tribal constitution or even an act of Congress*.



Case Law

- Property interests granted by the United States, once vested, may not be abrogated by statute.
- “There is no question that the government may, in its dealings with Indians, create property rights which, once vested, even it cannot alter.”



Resume Control of the Mineral Estate

