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Mixed Blood's Direction

A Newsletter for The Plaintiffs of Felter-vs-Kemphorne



COUNSEL OF RECORD REPORT # 16

By: Dennis G. Chappabitty, Esq.,,

I am extremely pleased to announce to all of you Plaintiffs in Felter v. Kemphorne that the Court of Appeals rendered an order, dated January 18, 2007, remanding your lawsuit to the U.S. District Court for the District of Columbia. The Circuit Court directed Judge Roberts to decide on the issue of whether P.L. Law 108-108 modified the federal statute of limitations law, 28 U.S.C. § 2401(a) to exempt Felter from the general rule that lawsuits against the United States must be filed not later than 6 years after the causes of action accrue. This is certainly a "Victory" in a long and difficult case.

When Judge Roberts notifies us that he has again assumed legal jurisdiction over Felter, he will issue an order notifying us and the defendant United States of dates for filing legal briefs on whether P.L. 108-108 applies to "save" our lawsuit. As of February 7, 2007, I have not received any orders from U.S. District Court Judge Roberts noticing us that the case is back before him for further action.

We have all fought very hard on sheer dedication and courage against all odds! One of the most significant cases in American legal history arising out of the "termination" era remains alive and well. I certainly appreciate the commitment of those Felter plaintiffs who have put all of your hearts and souls behind this effort to keep this lawsuit going. Without your financial assistance in the form of "contributions", we may not have succeeded in getting the Court of Appeals to remand the case.

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Once again, many of you have failed to keep your part of the bargain when you decided to join this lawsuit. Those of you who have not paid up your accounts as promised are not respecting the efforts of those who have been contributing the funds necessary for this case to go on to a complete victory.

Many of us have spent long hours and made extreme sacrifices in the course of fighting against the defendants' motion to dismiss and filing the appeal. We are keeping the fires alive in this case on our desire to see that the "Journey for Justice" keep rolling along. We have made no excuses in making sure that the legal rights of all you who have not paid at all or in full are there in the lawsuit with all the rest who have paid. I won't hear any more excuses as payment can be made in some amount or the other. Just do it!!



A Subject of Responsibility:

From the Desk of the Publisher:

On the 29th of January, our Attorney Dennis Chappabitty sent out a notice to the plaintiff's of Felter v. Kemphorne, reminding us of our obligation we have in supporting this case. To insure that each member plaintiff is informed of this latest request regarding future actions involving Felter v. Kemphorne this notice was given to Oranna B. Felter, Lead Plaintiff, to pass along to us, his clients.

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Dennis Grady Chappabitty

Counsel, Felter v. Kempthorne
“Comanche, Chiricahua Apache”

Dennis Grady Chappabitty was born in 1949 at the Indian Hospital in Lawton, Oklahoma. His first memories as a child was listening stories about his own Chiricahua and Comanche Peoples from the Old Ones. His father, Edwin Chappabitty, Sr., a Comanche, was a hardworking head of household who worked at Ft. Sill, OK as a civil service worker. His mother, Evangeline, a Chiricahua Apache, was a traditional “housewife” who raised 5 children in a very warm and loving home. Both parents dedicated themselves to insuring that all of their children received their educations and stressed to them that they should use their educations to help their own less fortunate Indians.

Dennis graduated from Oklahoma State University in 1972. He joined the United States Army as a 2nd Lieutenant in the Armor Corp and served at Ft. Hood, Texas, Korea and other duty stations during his active duty from 1972 to 1975. After leaving active duty, Dennis returned to Oklahoma State University to earn a Master Degree in 1976 and cut those studies short when he was accepted into the University of New Mexico School of Law. Dennis graduated from Law School with a Juris Doctorate Degree in 1981 and immediately went to work for his Comanche Tribe as staff attorney responsible for a variety of matters dealing with the Tribe’s governance and economic development. During this time, Dennis also represented many clients in various civil and criminal matters in the State Courts of Oklahoma. He prides himself in telling stories about the criminal trials he took to juries during his early years of practice: “If you are going to be a true Native American Lawyer and Warrior then

you have to prove yourself in battle and get over the fear or you will never be good to anyone as an advocate.”



In 1985, Dennis left his employment with the Comanche Nation and started his private practice focusing in the area of Federal Indian Law.

Dennis likes to emphasize that although he has his degrees and professional status as a licensed member of the Oklahoma State Bar Association that he has never forgotten what his father and mother always stressed – use your education to help your own Indian People. He has never left his true roots as a military veteran and proud warrior taking on causes that other lawyers won’t touch. Dennis realizes that injustices that happened many years ago to Indians must be corrected or left to fester and hurt many Indians for years to come. “When I spoke to Oranna about the sad story of the Terminated Members of the Uinta Band, I knew right off that this was a righteous cause I had to take on.”

One point that Dennis always emphasizes is that his grandmother, Minnie Nicholas, was a bona fide Prisoner-Of-War of the United States of America until the age of 13 when she and her other Chiricahua Band members were released from formal POW status at Ft. Sill, OK. Because he can trace his roots to injustices done to his own Comanche and Chiricahua People, Dennis believes that the battle must be fought even harder when Indians team up with Whites to cover up massive injustices like that on the Ute Indian Reservation.



Obituaries

Members of Felter v. Kempthorne who have recently passed on.
Let us never forget to continually pray for their families!

Connie Mac Denver Jr...Roll #MB-91...

Pete Earl Felter...Roll #MB-108...

Redstone Curry...Son of Ralph Curry...Roll #MB-68, Grandson of Richard H. Curry Sr...Roll #MB-66...



Oranna Bumgarner Felter

Lead Plaintiff, Felter v. Kempthorne
“RedWillow”

Oranna Felter was born in 1944, during the height of world war Two, on the Uintah and Ouray Indian Reservation located in the Northeastern corner of Utah near the Wyoming and Colorado borders. She was the third child of Samuel (Sam), a United States Marine at that time, and Elizabeth (Liz) Bumgarner. Besides Oranna, Liz and Sam also had two sons and two Daughters.

Oranna’s Father was a handsome Cherokee and Choctaw Indian from Porum, Oklahoma. Her Mother was a leader of the mixed-blood Uinta’s in the 1940’s and 1950’s. Oranna’s Grandparents on her Mothers side was Oran Curry, half Ute and Della (Harris) Curry an Indian of mixed Indian decent. Her Great-Grandparents was Henry E. Harris a Full-blood Northern Piate from Nevada and Mary (Reed) Harris a Uinta of mixed white and Shoshone parents. Her Grandfather Oran Curry was a member of the Uncompahgre Band of Ute Indian’s; Liz, Della, Henry and Mary were all members of the Uinta Band.

As a child Oranna was brought up in the beliefs, Traditions, and Customs of the Uinta Band of Ute Indians. She grew up on the Reservation in Ft. Duchesne and attended school at Alterra, Todd, located on Indian Bench and Union High School in Roosevelt, Utah. She spent her childhood not only in Ft. Duchesne but also in the hills and valleys of the Majestic snow capped Uinta Mountains, where her Grandpa Curry was a Tribal Game Warden and a Forest Ranger. These were the happiest days of her life. Her memories of those days are as numerous as the hairs on the winter coat of the sleeping Bear.

At the young age of 17, Oranna fell in love and married Bert D. Moosman a good looking man from Whiterocks, Utah. Oranna and Bert had two girls, Kimberlee and Mitzi. In 1976 Bert was tragically killed in a work related accident. One year later Oranna’s life took a turn for the better when she met, fell in love with, and married Dee Felter who Oranna had know from high school. Today Oranna and Dee have three children, Oranna’s two Daughters and Dee’s son Isaac, eight Grandchildren and three Great-Grandchildren. Both Oranna and Dee feel they’ve been blessed and will celebrate 30 years of Marriage this coming April 2007.



With the passage of the Ute Partition Act in 1954, Oranna’s life she loved as a child was suddenly turned upside down. Her and her people’s way of life was taken from them and destroyed and she has had to endure the tragedies that followed.

Because of the guidance and love she received as a child. Her core values and beliefs in the Creator, the customs and Traditions of her people have never left her. It is these values and beliefs that have made her who she is today. The beating of the sacred Drum still beats loudly in her heart. The Spirits of her Ancestors surrounds her with their love and makes her strong.

With this strength she has become a Warrior mounted on a mighty war pony. That war pony now carries this great Warrior, who the Spirit’s have named “Redwillow.”



Prayer List

The following individuals are just a few of our Mixed-Blood Family members who are in need of our prayers.

Naturitch K. Nielson... Our oldest member ...In a group home...Original #103.

Sonja K. Anderton.. Joint problems..Descendent #103.

Benard lucero.. Extensive back surgery...Original #130.

Sandy H. Asay. Recovering from serious illness...Original #254.

Mark Hackford... Battling back problems and other illnesses...Descendent#145.

Ellis Denver...Just not feeling well...Original #96.

Nola Zuniga..Diabetis & arthritis...Original #490.

Betty O. Springer...Recovering from serious illness... Descendent #321.

Kobe Dee Peterson.. Recovering from RSV...Descendent #32.

Illa H.Chivers...Recovering from several serious illnesses... Original #104.



Continued from page 1

A reoccurring problem that just can't seem to get solved has put Dennis and Oranna in the position of having to make a decision that they do not want to make, but must.

After Oranna spend several days, working long hours preparing the notice for mailing in order to keep the lines of communications open between Attorney and client. There occurred a problem in establishing communication between Dennis and some clients.

This problem in communication has been an on going occurrence which is a drain on the limited funds available and is caused by member plaintiff's failure to inform Oranna when a change of address has occurred. It is the responsibility of each individual to insure that his or her personal information is correct and up-to-date. If a current mailing address is not on file then you will not receive vital information pertaining to the case. Your names will be removed from the mailing database.

After mailing out the notices, there were a number returned because member plaintiffs' had relocated and failed to notify both the U.S. Post Office and Oranna of a change of address. This failure is a drain on the limited finances this case has available and cannot be tolerated any longer. There have been numerous attempts over the last four and one half years to rectify this problem, to no avail and the decision has been made that no long will any notices be mail to individual plaintiffs'.

The decision has been made that only head of families or households will be receiving notices, starting with this edition of the Newsletter.

To those of you, who have met your obligations and have constantly supported this effort, this action does not apply to you. Only those who have not yet met their obligations will this decision have an effect on.



The Mixed Blood's Direction

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Let us know your thoughts and what is happening with the people we all shared our lives with, write and let us know. Write to the Mixed Bloods Direction at the address below or e-mailing edenver@bak.rr.com. We're looking forward to hearing from you...

The Mixed Bloods Direction
27913 Taft Hwy
Taft, CA 93268

Commentary: the Opinion of the Court of Appeals

By: Earl Denver

I'm sure everyone has heard the news by now. On January 19th the three Judges, of the Court of Appeals for the District of Columbia, Circuit Judges Tatel, Kavanaugh and Senior Circuit Judge Williams, filed an opinion regarding Felter v. Kempthorne.

These three Circuit Judges all agreed unanimously in their opinion, that our case be Remanded, (sent) back to the District Court for a determination on whether Public Law 108-108 blocks the statute of Limitations from applying in our case.

The following is the Court of Appeals opinion:

"The district court dismissed the complaint, finding that plaintiffs' claims were barred by the six-year statute of limitations for non-tort actions against the United States."

"Although we agree with the district court's reasoning, we nonetheless remand the case for consideration of whether plaintiffs' claims have been saved by recently enacted legislation providing that the statute of limitations "shall not commence to run" on Indian claims of trust fund mismanagement until the United States has provided an accounting."

"Here, the government seeks dismissal of Felter's action under 28U.S.C. § 2401(a), but in order to interpret that statute correctly, it must be determined whether it has been modified by P.L. 108-108. Because the district court had no opportunity to consider that question, and because the parties have not fully briefed the issue here, we remand to the district court to determine whether P.L. 108-108 applies to any of Felter's claims."

This is how I see it. Even though the appeals court failed to overturn Judge Roberts's decision and rule in our favor. It's not a loss. What this does is breath life back into our case. It's a step in the right direction.

What is P.L. 108-108?

P.L. 108-108 is an appropriation bill passed by Congress and signed into Law on November 10, 2003. Although the term P.L. 108-108 is used, its title is "Department of the Interior and Related Agencies Appropriation Act, 2004."

This, Lady's and Gentlemen, is the foundation our Attorney used in his Brief that he filed on our behalf in August of last year. (The brief can be downloaded from our website.)

What does this all mean?

I have no crystal ball, nor do I have the ability to see into the future, so I cannot in all honest tell what the future has in store. I can tell you though, with faith in the Creator and by prayer our case will be successful. We must all continue to pray for our Attorney, Dennis G. Chappabitty. Pray that the hand of the Creator will be upon his shoulders to guide him in his thoughts and words. And that he will be given the strength to endure and be victorious in the battles that lie ahead.

