

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

CHAD EVERET BRACKEEN,  
JENNIFER KAY BRACKEEN, FRANK  
NICHOLAS LIBRETTI, HEATHER LYNN  
LIBRETTI, ALTAGRACIA SOCORRO  
HERNANDEZ, JASON CLIFFORD, and  
DANIELLE CLIFFORD,

and

STATE OF TEXAS,  
STATE OF LOUISIANA, and  
STATE OF INDIANA,

*Plaintiffs,*

v.

UNITED STATES OF AMERICA; RYAN  
ZINKE, in his official capacity as Secretary of  
the United States Department of the Interior;  
BRYAN RICE, in his official capacity as Di-  
rector of the Bureau of Indian Affairs; JOHN  
TAHSUDA III, in his official capacity as Act-  
ing Assistant Secretary for Indian Affairs; the  
BUREAU OF INDIAN AFFAIRS; the  
UNITED STATES DEPARTMENT OF THE  
INTERIOR; ALEX AZAR, in his official ca-  
pacity as Secretary of the United States De-  
partment of Health and Human Services; and  
the UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

*Defendants,*

CHEROKEE NATION, et al.,

*Intervenor-Defendants.*

Civil Action No. 4:17-cv-868-O

**MEMORANDUM IN OPPOSITION TO INTERVENOR-DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

Plaintiffs Chad Everet Brackeen, Jennifer Kay Brackeen, Frank Nicholas Libretti, Heather Lynn Libretti, Altagracia Socorro Hernandez, Jason Clifford, and Danielle Clifford (collectively “Individual Plaintiffs”), and the State of Texas, the State of Louisiana, and the State of Indiana

(collectively “State Plaintiffs”), oppose the motion for summary judgment and accompanying memorandum (ECF Nos. 144, 145) filed by the Intervenor-Defendants the Cherokee Nation, Oneida Nation, Quinault Indian Nation, and Morongo Band of Mission Indians. The Intervenor-Defendants are not entitled to judgment on any of the claims.

The memorandum that Intervenor-Defendants filed in support of their motion for summary judgment (ECF No. 145) simply repeats nearly verbatim the arguments made in their memorandum in support of their response to Plaintiffs’ motions for summary judgment (ECF No. 118). Plaintiffs have already answered those arguments in their previous filings. Therefore, in opposition to Intervenor-Defendants’ motion for summary judgment, Plaintiffs hereby adopt and incorporate by reference the legal and factual grounds that are set forth in State Plaintiffs’ Response in Opposition to Defendants’ Motions to Dismiss and Memorandum in Support of Motion for Summary Judgment (ECF No. 74), Individual Plaintiffs’ Brief in Opposition to Defendants’ Motions to Dismiss and in Support of Individual Plaintiffs’ Motion for Summary Judgment (ECF No. 80), State Plaintiffs’ Reply Brief in Support of Motion for Summary Judgment (ECF No. 142), and Individual Plaintiffs’ Reply in Support of Motion for Summary Judgment (ECF No. 143).

Plaintiffs respectfully request that the Court deny the Intervenor-Defendants’ motion on all counts.

Dated: June 27, 2018                      Respectfully submitted,

JEFF LANDRY  
Attorney General of Louisiana

CURTIS HILL  
Attorney General of Indiana

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY D. STARR  
Deputy First Assistant Attorney General

JAMES E. DAVIS  
Deputy Attorney General for Civil Litigation

/s/ David J. Hacker  
DAVID J. HACKER  
Special Counsel for Civil Litigation  
Texas Bar No. 24103323  
David.hacker@oag.texas.gov

OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 12548, Mail Code 009  
Austin, Texas 79711-2548  
(512) 936-1414

*Attorneys for State Plaintiffs*

/s/ Matthew D. McGill  
Matthew D. McGill (*pro hac vice*)  
Lochlan F. Shelfer (*pro hac vice*)  
David W. Casazza  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 887-3680  
mmc Gill@gibsondunn.com  
lshelfer@gibsondunn.com  
dcasazza@gibsondunn.com

*Attorneys for Individual Plaintiffs*

Mark Fiddler  
FIDDLER LAW OFFICE, P.A.  
6800 France Ave. So., Suite 190  
Minneapolis, MN 55435  
mark@fiddler-law.com  
Telephone: (612) 822-4095  
Facsimile: (612) 822-4096

*Attorney for Frank and Heather Libretti, and  
Jason and Danielle Clifford*

**CERTIFICATE OF SERVICE**

I hereby certify that, on June 27, 2018, I filed the foregoing document using the Court's ECF system. Service on all counsel of record for all parties was accomplished electronically using the Court's CM/ECF system.

/s/ Matthew D. McGill  
Matthew D. McGill  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Ave. N.W.  
Washington, D.C. 20036