

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Edward “Solly” Danks, Sr., and)
Georgianna Danks, as Land Owners,)

Plaintiffs,)

vs.)

Slawson Exploration Company, Inc., and)
White Butte Oil Operations, LLC,)

Defendants.)

**PLAINTIFFS’ REPLY TO
DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT**

Case No. 1:18-cv-186

COMES NOW Plaintiffs, through the undersigned attorney, and Reply to Defendants’ Motion for Summary Judgment.

FACTS

Plaintiffs incorporate by reference all of the paragraphs of the Complaint, and Amended Complaint as if fully set forth as a part of this Brief. On April 21, 2021, Plaintiffs filed a motion to dismiss this action without prejudice, as Plaintiffs have not exhausted administrative remedies with the Department of the Interior (DOI), Bureau of Indian Affairs (BIA), Fort Berthold Agency (FBA), New Town, North Dakota. Plaintiffs have filed an administrative complaint with the BIA, FBA. The BIA, FBA has accepted the administrative complaint for processing internally within the BIA, FBA.

ARGUMENT

If the Court lacks subject mater jurisdiction, it is precluded from entering any other

order, except to dismiss for lack of subject matter jurisdiction. “The judge has a duty to continually inspect the record of the case, and if subject-matter jurisdiction does not appear at any time from the record of the case, then he has the duty to dismiss the case as lacking subject-matter jurisdiction.” U.S. v. Will, 449 U.S. 200, 216 (1980), citing, Cohens v. Virginia, 19 U.S. (6 Wheat 1821). In a similar case, the U.S. Supreme Court held when a court lacks personal and subject matter jurisdiction, and the judge or court knowingly issues orders, all of its orders are void based on the fact that there was no personal or subject matter jurisdiction. The judge commits unlawful activity under a Code of Judicial Conduct, and the unlawful activity is a violation of the penalized party’s due process rights. Johnson v. Zerbst, 304 U.S. 458 (1938).

CONCLUSION

Based on the foregoing argument, the Court must dismiss this action and deny Defendants’ motion for summary judgment pursuant to Johnson v. Zerbst.

DATED April 21, 2021.

FOR PLAINTIFFS:

/s/ Don Bruce

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SERVICE PF PROCESS

COMES NOW Plaintiffs and assert Defendants have been served simultaneously when this document was file in the Court electronically, through the Clerk of Court.