

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

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|---|---|-------------------|
| ALABAMA-QUASSARTE TRIBAL |) | |
| TOWN, Federal-recognized Indian Tribe, |) | |
| |) | No. 6:22-cv-00268 |
| Plaintiff, |) | |
| v. |) | |
| |) | |
| FIRST NATIONAL BANK AND |) | |
| TRUST COMPANY OF OKMULGEE, |) | |
| WILSON L. YARGEE |) | |
| ROVENA YARGEE, |) | |
| |) | |
| |) | |
| all Defendants joined individually and in |) | |
| their official capacity for purposes of |) | |
| declaratory relief as may be necessary, and |) | |
| prospective Injunctive Relief only, |) | |
| |) | |
| Defendants. |) | |

**AMENDED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY RELIEF**

COMES NOW, Plaintiff, ALABAMA-QUASSARTE TRIBAL TOWN (“AQTT”, “Tribe”, or “Town”), a federally recognized sovereign Indian nation, by and through its counsel, and for its causes of action against Defendants, and alleges and states:

INTRODUCTION

1. The AQTT is a federally-recognized Native American Indian tribe located in Oklahoma. AQTT supports the wellbeing of its members by providing a wide variety of social services and economic opportunities, which are funded by a combination of federal government contracts and economic development companies operated by the Tribe.

2. Wilson Yargee (“Yargee”) is a twice-impeached-and-removed tribal chief who asserts that his removal from office violated the due process provision of the U.S. Constitution, as

incorporated by the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1304. Based on this assertion, Yargee has continued to attempt to assert authority to act on behalf of the AQTT against the Tribal Members' expressed will.

3. Yargee also claims to have established an AQTT Court and nominated a judicial officer to that Court, all in violation of the AQTT Constitution, the AQTT Corporate Charter, and the Oklahoma Indian Welfare Act, 25 U.S.C. §§ 5201 *et seq.*

4. As a result of Yargee's unlawful claims of authority, AQTT's access to its financial accounts has been restricted by its bank, First National Bank and Trust of Okmulgee ("First National"). This has obstructed the ability of tribal leadership to dispense tribal funds to its dependent members.

5. AQTT requests a declaratory judgment, pursuant to 28 U.S.C. § 2201, that Yargee's impeachment and removal did not violate his due process rights under the U.S. Constitution, Indian Civil Rights Act, or other federal law. AQTT further requests a declaratory judgment that Yargee's purported establishment of an AQTT Court violates the Oklahoma Indian Welfare Act, and that orders issued by the illegitimate Court are not entitled to full faith and credit under the U.S. Constitution.

6. AQTT also seeks a preliminary injunction to preserve the status quo by preventing First National from distributing AQTT funds to Yargee during the pendency of this matter. AQTT intends to seek a permanent injunction preventing First National from distributing AQTT funds to Yargee once the Court has declared that Yargee has no valid defense to his removal from office based on federal law, requiring First National to recover AQTT funds it improperly released to Wilson Yargee, and requiring First National to allow control of and access to AQTT funds by the

individuals within the legitimate administration, including Sam Marshall, Mary Tiger, Lena Wind, and the properly-elected Governing Committee.

7. Finally, AQTT seeks additional declaratory and injunctive relief necessary to free it from Yargee's unlawful usurpation of AQTT's governmental powers once and for all.

PARTIES

8. The AQTT is a Federally-recognized Indian tribe organized pursuant to the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967) with its Constitution and By-Laws ratified on January 10, 1939, and its Corporate Charter ratified on May 24, 1939. The AQTT maintains its tribal headquarters in Wetumka, Hughes County, Oklahoma.

9. Defendant First National operates as a full service bank with its principal place of business at 610 E 8th St Okmulgee, OK, 74447-5505. First National regularly conducts business in Okmulgee, OK through its main office located at including its main office located at 610 E 8th St Okmulgee, OK, 74447-5505.

10. WILSON L. YARGEE is a former chief of the AQTT who continues to claim that he is the current chief of the AQTT. Upon information and belief, he resides at 3050 N 381 Rd., Wetumka, OK 74883.

11. ROVENA YARGEE is a former second chief of the AQTT who continues to claim that she is the second chief of the AQTT. Upon information and belief, she resides at 3050 N 381 Rd., Wetumka, OK 74883.

12. Wilson Yargee and Rovena Yargee are collectively referred to herein as the "Yargee Defendants."

JURISDICTION AND VENUE

13. Jurisdiction is conferred by Title 28 U.S.C. §1331 which provides for original jurisdiction of this Court in suits that arise under the Constitution, laws, or treaties of the United States. Jurisdiction is further conferred by Title 28 U.S.C. §1362 which provides for original jurisdiction of all civil actions, brought by any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior, where the matter in controversy arises under the Constitution, laws, or treaties of the United States.

14. Specifically, this Court has jurisdiction to resolve the federal questions presented, including whether the AQTT's removal of Wilson Yargee as Chief comported with due process requirements of the U.S. Constitution and the Indian Civil Rights Act, whether Yargee's purported establishment of an AQTT Court violates the Oklahoma Indian Welfare Act, whether orders issued by the illegitimate Court are entitled to full faith and credit under the U.S. Constitution, whether Yargee has authority to represent AQTT with respect to Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, or with respect to or Section 8(a) of the Small Business Act, whether Yargee's unlawful actions violate the Corporate Charter issued by the U.S. Department of the Interior pursuant to the Oklahoma Indian Welfare Act, and whether orders issued by the unlawful court Yargee established violate the federally-recognized sovereign immunity of the AQTT.

15. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(1) and (b)(2), as each Defendant resides in Oklahoma and a substantial portion of the events described herein occurred in Oklahoma.

16. AQTT reserves all rights, claims, and protections of its Tribal sovereignty, including immunity from any suit arising under this action. See *Oklahoma Tax Com'n v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 498 U.S. 505, 509, 111 S.Ct. 905 (1991) (“... a tribe

does not waive its sovereign immunity from actions that could not otherwise be brought against it merely because those actions were pleaded in a counterclaim to an action filed by the tribe.”).

RELEVANT BACKGROUND

Creation and Governance of the AQTT

17. In 1934, the United States Congress enacted the Indian Reorganization Act (“IRA”), now codified as 25 U.S.C. § 5101 et seq. Congress extended the IRA to include tribes in Oklahoma in 1936 by adopting the Oklahoma Indian Welfare Act (“OIWA”), now codified at 25 U.S.C. § 5101 et seq.

18. The OIWA was designed to allow Native American tribes, in Oklahoma, to rebuild Tribal governments that had been previously dissolved by the Federal government to create the State of Oklahoma. Among other things, the OIWA created a mechanism under federal law for any Indian tribe in Oklahoma “to organize for its common welfare and to adopt a constitution and bylaws, under such rules and regulations as the Secretary of the Interior may prescribe.” 25 U.S.C. § 5203.

19. Pursuant to that federal authority, the AQTT adopted and ratified its Constitution and By-Laws on January 10, 1939. A copy of the Constitution and By-Laws is attached hereto as Exhibit A.

20. Article V of the AQTT Constitution provides that AQTT government shall include the following officers: Chief, Second Chief, Secretary, Floor Speaker, Solicitor, Chairman of the Governing Committee, and twelve members of the Governing Committee. (Exh. A, p. 2). Article V also provides the mechanism by which these officers are to be elected. (Id.). Article VII of the AQTT Constitution provides the mechanism through which Officers may be removed and

vacancies may be filled. (Id.). Article II of the Bylaws provides that meetings of the Governing Committee and other officers shall be held on the last Thursday of every alternate month. (Id.).

21. The Chief and Second Chief together form the executive branch of the AQTT government, while the Governing Committee forms the legislative branch.

22. With respect to any dispute between these branches, the Constitution provides that “[i]n the case of a dispute between the Governing Committee and the Chief, the matter shall be settled by the Solicitor.” (Id., Art. V). Resolution by the Solicitor is the ultimate intra-tribal remedy provided for by the AQTT Constitution. Notably, the dispute regarding the

23. The AQTT Constitution does not provide for any judiciary. (See generally Exh. A). Instead, as per the AQTT Constitution, all members of the Alabama-Quassarte Tribal Town are citizens of the Muscogee (Creek) Nation and as such, have claims heard before the courts of the Muscogee (Creek) Nation.

24. The only mechanism for amending the Constitutions and By-Laws is established in Article III of the By-Laws. Specifically, amendments “may be proposed by a majority vote of the Governing Committee or by a petition signed by thirty per cent of the adult members of the town, and if approved by the Secretary of the Interior shall be submitted to a referendum vote of the members of the town[.]”

25. The AQTT Constitution and Bylaws are subject to the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1304 (“ICRA”). Broadly speaking, the ICRA provides tribal members a bill of rights comparable to the Bill of Rights in the U.S. Constitution.

26. On May 24, 1939, about four months after adopting the Constitution and By-Laws, the AQTT ratified a Corporate Charter, attached hereto as Exhibit B, that was issued by the Assistant Secretary of the Interior pursuant to the OIWA. The Corporate Charter provides that the

purposes of the AQTT include defining and safeguarding the rights and powers of the AQTT and its members, advancing the standard of living of the AQTT through certain enumerated activities, and promoting the general welfare of members of the tribe (Exh. B, §1).

27. Among other things, the Corporate Charter gave the AQTT legal power to enter into obligations and contracts, negotiate with government entities, appropriate tribal funds, or deposit corporate funds in a National Bank within the state of Oklahoma or in the Postal Savings Bank. (See Exh. B, § 3). The Corporate Charter also authorizes AQTT to regulate the manner of holding elections, regulate procedures, preserve the property, resources, and traditions of the AQTT, and impose penalties on AQTT members for violation of the corporate bylaws or ordinances. (Id., § 3(n)-3(q)).

28. On March 30, 2006, the AQTT Governing Committee enacted a Tribal “Standing Policy & Rules of Procedure (“The Rules”), attached hereto as Exhibit C. The Rules provide that “[a] motion to ‘remove for cause’ from office may be made or presented at any regular Tribal Town Meeting by any Tribal Town Officer or Tribal Town Member” and that any such removal “shall be by majority vote of the Tribal Town members present at a Tribal Town Membership meeting.” (Exh. C, pp. 1-2). The Rules also provide that the Governing Committee has “authority to investigate” and created authority to “establish and maintain a Fact Finding and Investigations Committee when it is deemed necessary.” (Id, pp. 1,5).

The AQTT Prior to 2021

29. Since its creation, the AQTT has been vital in supporting the wellbeing of its members.

30. Pursuant to OIWA and the governing documents adopted under its authority, the AQTT has supported crucial social programs for its members through maintaining bank

accounts, raising funds, and otherwise administering the programs. Those programs include the Elderly assistance Program, School Clothing Program, Holiday pay and the General Assistance Program, and Funeral Assistance.

31. The AQTT's bank account also maintains funds for the AQTT Child Care Center and Child Care home Providers, LIHEAP funds which pay assistance for residential utilities, and NAHASDA-TIHD funds. AQTT funds are also used to support the IHBG Cares Act Relocation/Utility Assistance program, BIA Housing Assistance Program, U.S. Treasury Emergency Rental Assistance program, Indian Housing Block Grant Maintenance Assistance Program, Indian Housing Block Grant Housing Assistance program, Appliance Program, and the Indian Child Welfare Program.

32. The AQTT has supported these programs using funds earned directly from the federal government pursuant to contracts made in accordance with the Indian Self-Determination and Education Assistance Act ("ISDEAA") of 1975, also known as Public Law 93-638. These contracts are commonly referred to as "638" contracts. The AQTT has also earned funds pursuant to contracts through Section 8(a) of the Small Business Act, 15 U.S.C. 637(a) and its implementing regulations, 13 C.F.R. 124. These contracts, commonly referred to as "8(a)" contracts, are intended to help companies owned and controlled by socially and economically disadvantaged minorities.

33. Both 638 contracts and 8(a) contracts are essential to the Tribe's financial well-being. AQTT also operates numerous economic development companies, also known as Section 8(a) companies, to support the economy of the Tribe.

34. Like many Tribes, the AQTT has had some financial difficulties since its inception. On February 20, 2009, under the administration of Tarpee Yargee (Wilson Yargee's

uncle), the Bureau of Indian Affairs (“BIA”) imposed “High Risk Contractor/Grantee” status on the Tribe because of financial mismanagement. However, under the leadership of Chief Nelson Harjo – who immediately followed Tarpee Yargee and immediately preceded Wilson Yargee as elected Chief – the Tribe took corrective actions to get its finances in order. As a result, on April 17, 2020, the BIA issued a letter acknowledging those corrective actions and formally removing the Tribe from “High Risk Contractor/Grantee” status. This meant that the financial house of the Tribe was in order. Unfortunately, it did not stay in order once Wilson Yargee took over.

Chief Wilson Yargee’s Failed Administration

35. In May of 2021, Wilson and Rovena Yargee were elected Chief and Second Chief, respectively, of the AQTT. Wilson and Rovena Yargee were sworn into their respective positions on May 27, 2021.

36. The financial situation of the AQTT went into a downward spiral almost immediately after Wilson and Rovena Yargee took office. Between May and September 2021, on information and belief, a total of \$218,000 had been transferred from AQTT’s Economic Development Administration Capital Account to the Tribal Revenue account (i.e. operations for the Tribal government programs), included \$125,000 in August and \$25,000 in September. account to its Operations account to try and cover up the shortfall in the funding AQTT had to operate its programs. This transfer was performed by Chief Yargee without any notice to or approval by the Governing Committee, despite a resolution the Chief can only transfer an amount under \$5,000 unless he first obtains official Governing Committee approval. Upon information and belief, these transfers were made to the Tribal Revenue Operations account to try and cover up a shortfall AQTT had to operate its programs as a result of financial mismanagement.

37. In addition, on information and belief, Chief Yargee withdrew \$200,000 in August, 2021, and \$300,000 more in October, 2021, from a tribal investment in Native Horizons, an 8(a) company operated by AQTT. These funds were also transferred to AQTT's Tribal Revenue Account without any notice to or approval by the Governing Committee. Upon information and belief, these transfers were also made to the Tribal Revenue Operations account to try and cover up a shortfall AQTT had to operate its programs as a result of financial mismanagement.

38. By August 26, 2021, despite the transfer of \$718,000 in total from the Tribal Economic Development Administration Capital Account and Tribal-Owned Native Horizons, many of AQTT's financial accounts had either a \$0 balance or a negative balance. In particular, the Tribal Revenue Operations account, which is AQTT's main account, had a negative balance. Multiple checks bounced, and vendors were paid late. Despite repeated requests, Wilson and Rovena Yargee have not been able to explain with specificity where the money went.

39. According to the BIA, no drawdowns were taken by the Wilson Yargee administration from its grant accounts during the entirety of Chief Yargee's administration, even though programs like the Transportation program had been spending money that should have come from program grants instead of the Tribal Revenue Operations account. Instead, a majority of the \$718,000 transferred to the Tribal Revenue Operations Account was spent by Wilson and Rovena Yargee without any notice to or approval by the Governing Committee. There does not appear to be an accounting of where the money went or how it was spent.

40. The Members of the Tribe discussed the significant accounting and financial problems with Chief Yargee on August 26, 2021, at the regularly scheduled bimonthly membership meeting. Wilson Yargee announced that the Tribe's accountant, Kim Odell, had resigned two months prior. He also indicated he was meeting with an accounting firm named

RedW to discuss hiring them as a replacement. Yargee indicated that the Governing Committee would be included in the meeting. Shortly thereafter, rather than staying to help resolve the Tribe's financial crises, Wilson Yargee went on a two-week vacation.

41. After Wilson Yargee returned from vacation, the Governing Committee convened special meetings on September 15, 2021, and September 23, 2021, to continue addressing the dire financial situation. At the latter meeting, Chief Yargee and Rovenia Yargee suggested addressing the problem by drawing their bank accounts further into the red, despite the substantial cost of doing so.

42. Ultimately, Yargee hired RedW without following proper BIA procedures, which required him to meet with at least three different accounting firms, and without approval from the Governing Committee even though he was required to get approval for any contracts over \$4,999 (which this one was). Indeed, Yargee did not even inform the Governing Committee that he was hiring RedW or expending Tribal funds until after he had already signed the contract.

43. Hiring RedW to help with the books could not stave off the economic catastrophe that Wilson and Rovenia Yargee had allowed to fester. On October 21, 2021, all employees of AQTT companies were informed that they had been laid off and received termination notices as a result of the Tribe's negative cash flow and balances. This has caused substantial additional economic hardship to the Tribe and its Members.

44. Ultimately, Chief Yargee's short-lived administration was defined by the following:

- a. Through mismanagement, incompetence and willful neglect, Wilson Yargee & Rovenia Yargee caused AQTT to become insolvent, causing a substantial crisis for the Tribe after only four (4) months in Office. A majority of Tribal jobs were terminated, causing great suffering within the Tribe.

- b. Wilson Yargee & Rovena Yargee mismanaged Tribal monies, causing Tribal accounts to plunge into negative balances. Wilson Yargee failed to attend multiple investor meetings that could have infused cash into the Tribe preventing the shut down and closure of the Tribe.
- c. Wilson Yargee & Rovena Yargee repeatedly failed to get the consent of the AQTT Governing Committee, as required by the AQTT Constitution & By-Laws, before signing large third-party contracts that created massive liability for the Tribe. Indeed, Wilson & Rovena Yargee repeatedly failed to inform the AQTT Governing Committee of Tribal Meetings where third-party contracts were signed creating additional liabilities for the AQTT.

Chief Wilson Yargee's Impeachment and Removal

45. The AQTT held its regularly scheduled bimonthly Town Meeting on October 28, 2021. The Governing Committee also asked Wilson and Rovena Yargee to attend the meeting and account for the Tribe's financial crisis.

46. Defendant Wilson Yargee showed up 1 hour and 15 minutes late to this Meeting. Once Defendant Yargee arrived, Tribal members began asking questions of Defendants regarding the financial crisis. Both Defendants failed to fully address these issues and blamed the crisis on the former Chief, Nelson Harjo. Tribal Members, however, discounted the Defendants' claims and presented evidence that the AQTT had been removed from the "High Risk" category by the Bureau of Indian Affairs just months before the election of Wilson Harjo. Questions by Tribal Members about the financial health of the AQTT were deflected by the Defendants.

47. After some discussion had taken place, one Tribal Member made a Motion to remove both Defendants from Office for cause. This Motion was authorized by Section II of the AQTT By-Laws, and it was quickly seconded by a second AQTT Member.

48. Upon hearing the Tribal Member's Motion for his Removal, Wilson Yargee had an opportunity to respond to the motion for his Removal. Instead of responding, Yargee quickly left the Meeting. He then returned and told Second Chief Rovena Yargee to also leave the Meeting.

Both Defendants had been notified of the issues before the Meeting and were given ample opportunity to prepare and to speak on their behalf at the Meeting.

49. The grounds for Removal were read to the Tribal Membership and the Tribal Town. The grounds included several actions that contributed to the economic downfall of the Tribe as well as some unrelated abuses of power. Formally, the charges included willful neglect of duty, Incompetence, Mismanagement, Abuse of Authority, Unethical Behavior and Other Actions.

50. A vote of Tribal Members was then held, and an overwhelming majority voted to remove Wilson Yargee from the Office of Chief. and Rovena Yargee from the Office of Second Chief.

51. This Removal was conducted according to the Alabama-Quassarte Constitution and according to the AQTT Standing Policy and Rules of Procedure. Specifically, on November 3, 2021, a Special Meeting was called by the AQTT Governing Committee (the AQTT legislative branch) to memorialize, through official AQTT resolution, the Removal of Wilson Yargee and Rovena Yargee. from Office.

52. This Removal was contested by both Defendants, so the Governing Committee utilized their AQTT Constitution and asked the AQTT Solicitor, Elton Smith, to review the facts and to decide whether the Removal of Wilson Yargee and Rovena Yargee had been conducted properly according to the principles of due process and according to the AQTT Constitution and By-Laws.

53. The AQTT Solicitor ruled the Removal Process could continue at the November 3, 2021 Special Meeting. Solicitor Elton Smith - stated during the November 3, 2021 Special Meeting that,

If he [Wilson Yargee] has all power then there is no need for a Council [Governing Committee]. . . So what happens if every time you have a

Meeting to try to do something, they [Wilson Yargee & Rovena Yargee] walk out so that you don't have a quorum? So what's the solution to that? . . . They could do that next week. So what's the answer to that? . . . If this is the best you can do it's the best you can do. . . So while we are right here and things are going on and this and this and that. So how do we solve the issue? It has to be resolved. To me you have to resolve it according to what you have here. You go back to that rule.¹ Well, we also have a crisis. At this time. to me as a member I would back it [support the validity of the Meeting for Removal].

See Statement of Solicitor, page 8 of the November 3, 2021, meeting minutes (attached as Exhibit D).

54. In a statement submitted under penalty of perjury, the Solicitor subsequently confirmed his ruling that a Motion was made and properly seconded by Town members to remove Wilson Yargee and Chief and to remove Rovena Yargee as Second Chief at the meeting held on October 28, 2021. The Solicitor further confirmed his ruling that the November 3, 2021, meeting could properly continue at that the Motion for Removal of Wilson Yargee and Rovena Yargee could properly proceed.

55. The Solicitor thus resolved the dispute between the Chief and Governing Council of whether the Removal could proceed. Since the Solicitor determined that the Removal could proceed, the AQTT Governing Committee voted on formal resolution for Removal of the Defendants, Wilson Yargee and Rovena Yargee, in accordance with the vote taken at the October 28, 2021 meeting. This resolution passed by a majority vote. Wislson Yargee and Rovena Yargee were thus removed from Office, for cause, by an official AQTT Resolution. See Exhibit D., pp. 5-7.

² AQTT Governing Committee Standing Policy and Rules of Procedure, approved March 30, 2006, Removal of Tribal Town Officers, "A motion to "remove for cause" from office may be made or presented at any regular Tribal Town Membership Meeting by any Tribal Town Officer of Tribal Town member. . . All removals from office shall be by majority vote of the Alabama-Quassarte Tribal Town members present at a Tribal Town Membership meeting.

56. After the Yargees were legally removed by the Town members, the Governing Committee, by majority vote, appointed Sam Marshall to fulfill Wilson Yargee's unexpired term as Chief. This process was performed consistent and performed in accordance with Article VII of the Constitution entitled, "Removal from Office and Filling Vacancies." Attached as Exhibit E is a true and accurate copy of the Resolution appointing Sam Marshall as interim Chief of AQTT.

Post-Impeachment Actions and Proceedings

57. Despite their formal impeachment and removal, the Yargees have continued to claim they remain in power. Their "primary objection to their alleged removal is that they were not accorded due process" in accordance with the U.S. Constitution and § 1302 of the Indian Civil Rights Act. (Dkt. # 15, p. 10).

58. In connection with their refusal to acknowledge the legitimate AQTT government, Wilson and Rovenia Yargee have mounted an insurrection to try and keep their power. On or about December 6 2021, on information and belief, they or individuals acting on their behalf illegally broke into AQTT Government Offices and removed sensitive AQTT documents including AQTT stationery from these Offices, and replaced the locks so that only certain family members and friendly tribe members could enter. Wilson Yargee and Rovenia Yargee also purported to pass resolutions removing individuals from the AQTT Economic Development Board and from the Governing Committee, despite lacking any legal authority to do so. Wilson Yargee then named himself as the new Chairman of the AQTT Economic Development Board and replaced the legitimately elected members of the AQTT Governing Committee with members from his own family, again without any legal authority to do so. Wilson Yargee has even purported to expel certain individuals opposed to his reign from Tribal Membership altogether through a series of letters sent December 3, 2021, despite lacking legal authority to do so.

59. In response to these abusive actions, on December 22, 2021, the Official Elected Officers of the AQTT sent out a formal written letter providing notice to all Tribe Members “to confirm that the Membership will be coming together for the regular membership meeting on December 30th, 2021, at the original time of 7pm.” A copy of the Notice is attached hereto as Exhibit F. The Notice expressly states that the meeting will be about the actions of Wilson and Rovena Yargee and related legal proceedings.

60. At the December 30, 2021 Tribal Membership Meeting, a second Motion was made and seconded to re-enforce the Removal of Wilson Yargee and Rovena Yargee. A Vote was taken on the Motion to re-enforce the Removal of Wilson Yargee and Rovena Yargee and this Motion passed by a Unanimous vote of all Tribal Members present at this Membership Meeting.

61. In short, the AQTT Check & Balance system, as established by the AQTT Constitution and By-Laws, and as ruled on by the AQTT Solicitor, worked successfully as any democratic system is designed to work. The people rose up against an incompetent leader doing harm to their Tribe, followed their constitutional procedures and impeached Wilson Yargee and Rovena Yargee

62. Wilson Yargee and Rovena Yargee, however, refused to follow the will of the people, the AQTT Constitution and By-Laws or the AQTT Solicitor. Despite these proceedings, including written notice and a *second* meeting giving them an opportunity to contest their removal from office, Wilson and Rovena Yargee continue to maintain that they are the legal Chief and Second Chief because the proceedings – which they concede occurred as provided in the text of the AQTT Constitution and Rules – purportedly did not provide them sufficient due process in accordance with the U.S. Constitution and § 1302 of the Indian Civil Rights Act.

63. To this day Wilson and Rovenia Yargee have continued usurping the legal authority of the AQTT and using AQTT funds without proper legal authority to do so, despite have been lawfully removed from power – twice.

First National Refuses to Release Funds to the Duly-Appointed Chief, Sam Marshall

64. Despite his lawful appointment under the procedures contained in the Alabama-Quassarte Constitution, First National has refused to recognize Chief Sam Marshall and/or his designee as the sole legal representative to the Alabama-Quassarte Tribal Town bank accounts at First National.

65. First National currently maintains the following accounts on behalf of the AQTT with the following respective and approximate balances as of May 31, 2022: (1) Coronavirus Relief Fund- \$1,036,390.56, (2) Cares Act- \$24,987.07 (as of December 7, 2021), (3) American Rescue Plan Act- \$2,830,312.43, (4) Operations-\$22,414.25, (5) In-Direct Cost- \$926.68, (6) Tribal Revenue-\$70,130.84, (7) BIA- \$701,202.80, (8) Child Care- \$1,619.15, (9) LIHEAP- \$0, (10) NAHASDA-TIHD- \$0, (11) ICW- \$93,754.82, (12) Tribal Transportations- \$202,516.23, (13) Smoke Shop, (value unknown)(14) EDA Capital Account- \$1,287.01, (15) EDA Business Operating Account- \$2,566.92.

66. All of the accounts referenced in the preceding paragraph were funded by AQTT.

67. First National claims it “is now and has at all times been ready and willing to disburse funds to the person or persons legally entitled to the aforesaid funds but has not been able to do so because of conflicting claims.”

68. Specifically, despite his lawful impeachment, Yargee claims he should remain in power in contradiction to procedures expressed in the Alabama-Quassarte Constitution and related

tribal governance documents. This, of course, conflicts with the AQTT's rightful claim to the funds.

69. AQTT is suffering irreparable harm by First National's refusal to tender funds from AQTT bank accounts held at First National.

70. As a result of First National's refusal to permit access to the funds, the AQTT has been forced to suspend the following programs: Elderly Nutrition Program and elderly assistance program, School Clothing Program, the General assistance program, Child Care Center and Home provider assistance, LIHEAP, all of Housing assistance, and the Indian Child Welfare Program.

Wilson Yargee Creates an Illegal "Court"

71. Recognizing that a Court Order was the key to obtaining Tribal Funds from First National, Yargee and Rovenia Yargee purported to establish an AQTT Town Court (the "Yargee Court") on December 18, 2021. This purported creation of a Court was inconsistent with the OIWA, which is the underlying legal authority for the AQTT Constitution – a constitution that does not provide for any judiciary and which can only be amended through the referendum process delineated in the Constitution itself, not through fiat by a Chief (*especially* not by a chief that had been removed from office) or even by vote of the Governing Committee.

a. In order to establish a lawful and constitutional Alabama-Quassarte Tribal Town District Court, the following legal elements would have had to be satisfied:

- a. The Alabama-Quassarte Constitution must have a provision that specifically states, and allows for the creation of a Tribal court.
- b. If the Alabama-Quassarte Constitution does not have this provision (which it does not), the Constitution must be amended as per Article III of the Alabama-Quassarte By-Laws. Article III states that, "Amendments... may be proposed by a majority vote of the Governing Committee or by a petition signed by thirty percent (30%) of the adult members of the Town."
- c. The Amendment must be approved by the Secretary of the Interior and then submitted to a referendum vote of the members of the Tribal Town. The

Amendment only becomes effective if approved by a majority vote of Tribal membership.

- d. The legally elected officials of the Alabama-Quassarte must draft and approve a Tribal Law & Order Code through a Tribal Resolution.
 - e. The legally elected officials of the Alabama-Quassarte must draft the Rules of Civil Procedure and the Rules of Criminal Procedure, and they must then be approved through Tribal Resolution.
 - f. The Assistant Secretary of the Interior must approve the Tribal Law & Order Code through the issuance of a Determination Letter.
 - g. The Assistant Secretary of the Interior must approve the Rules of Civil Procedure and the Rules of Criminal Procedure through the issuance of a Determination Letter.
 - h. The Assistant Secretary of the Interior must approve the overall Tribal Court of the Alabama-Quassarte Tribal Town through the issuance of a Determination Letter.
72. None of these legal elements were satisfied by the Yargee Court, which is therefore illegitimate.

73. Despite his lack of authority to create any Court, Wilson Yargee purported not only to do so but also to name one of his friends, Tahlina Nofire, to be its judge. Chief Yargee made this purported appointment without approval from the AQTT Constitution and By-Laws, and without approval from the Assistant Secretary of the Interior.

74. First National has threatened to release funds to the Individual Defendants because of the orders supposedly entered by the illegitimate Yargee Tribal Town Court.

COUNT I
Declaratory Judgment Act (28 U.S.C. § 2201)

75. The AQTT restates and realleges the preceding paragraphs as if fully stated herein.

76. An actual controversy exists between AQTT and the Yargee Defendants concerning each of the following:

- a. whether the AQTT's removal of Wilson Yargee as Chief and Rovena Yargee as Second Chief comported with due process requirements of the U.S. Constitution and § 1302 of the Indian Civil Rights Act;
- b. whether Wilson Yargee's purported establishment of an AQTT Court is legally authorized by the Oklahoma Indian Welfare Act;

- c. Whether Wilson Yargee's purported establishment of an AQTT Court violates the sovereignty and self-governance rights of the AQTT under the Oklahoma Indian Welfare Act as a result of its inconsistency with the AQTT Constitution;
 - d. Whether orders entered by the Yargee Court purporting to bind the AQTT violate the sovereign immunity granted to the AQTT under the Oklahoma Indian Welfare Act;
 - e. Whether orders issued by the Yargee Court are entitled to full faith and credit under the U.S. Constitution;
 - f. Whether Wilson Yargee has authority to represent AQTT with respect to Public Law 93-638 , the Indian Self-Determination and Education Assistance Act of 1975;
 - g. Whether Wilson Yargee has authority to represent AQTT with respect to Section 8(a) of the Small Business Act;
 - h. Whether Wilson Yargee's actions violate the Corporate Charter issued by the U.S. Department of the Interior pursuant to the Oklahoma Indian Welfare Act, and thereby violate the Oklahoma Indian Welfare Act; and
 - i. Whether orders issued by the unlawful court Yargee established, the so-called Yargee Tribal Town Court, that purport to bind the AQTT violate the federally-recognized sovereign immunity of the AQTT.
77. An actual controversy exists between AQTT and First National as to the ability to control and access the accounts held at First National.
78. As part of its claims for declaratory relief, Plaintiff AQTT seeks a declaration from this Court that:
- a. The AQTT's removal of Wilson Yargee as Chief and Rovena Yargee as Second Chief comported with due process requirements of the U.S. Constitution and § 1302 of the Indian Civil Rights Act;
 - b. Wilson Yargee's purported establishment of an AQTT Court is not legally authorized by the Oklahoma Indian Welfare Act, and orders issued by it are therefore void *ab initio* as a matter of United States law;
 - c. Wilson Yargee's purported establishment of an AQTT Court violates the sovereignty and self-governance rights of the AQTT under the Oklahoma Indian Welfare Act as a result of its inconsistency with the AQTT Constitution;

- d. Orders entered by the Yargee Court purporting to bind the AQTT violate the sovereign immunity granted to the AQTT under the Oklahoma Indian Welfare Act;
- e. Orders issued by the Yargee Court are not entitled to full faith and credit under the U.S. Constitution;
- f. Wilson Yargee and Rovena Yargee do not have authority to represent AQTT with respect to Public Law 93-638 , the Indian Self-Determination and Education Assistance Act of 1975;
- g. Wilson Yargee and Rovena Yargee do not have authority to represent AQTT with respect to Section 8(a) of the Small Business Act;
- h. Wilson Yargee's actions and Rovena Yargee's actions have violated the Corporate Charter issued by the U.S. Department of the Interior pursuant to the Oklahoma Indian Welfare Act, and thereby violated the Oklahoma Indian Welfare Act;
- i. orders issued by the unlawful court Yargee established, the so-called Yargee Tribal Town Court, that purport to bind the AQTT violate the federally-recognized sovereign immunity of the AQTT;
- j. Wilson Yargee and Rovina Yargee have no valid claim to the funds held by First National on behalf of AQTT, and that First National should therefore turn over control of the AQTT bank account(s) over to Sam Marshall and/or his designees; and
- k. For such other and further orders and judgments and relief as the Court may deem just and proper.

COUNT II

Application for Injunctive Relief

79. Plaintiff incorporates all allegations in the preceding paragraphs and further alleges as follows:

80. Unless enjoined by the Court, Defendants will continue to exercise unlawful control of over AQTT property in violation of OIWA and other federal laws

81. Defendants' unlawful actions are ongoing, and the injuries to AQTT and its citizens constitute irreparable and permanent harm.

82. AQTT has a likelihood of success on the merits of this dispute.

83. There is no adequate and complete remedy at law to stop the Yargee Defendants and First National's unlawful actions against Plaintiff given that the health and safety of AQTT citizens is in jeopardy.

84. Future monetary compensation to AQTT for the unlawful restrictions imposed against AQTT property will not provide relief to the AQTT members suffering the immediate injuries associated with the interruption of necessary social assistance programs.

85. AQTT is entitled to a preliminary and permanent injunction pending a hearing ordering any state court not to domesticate or otherwise honor any orders from the illegitimate Yargee Tribal Town Court before this Court can determine whether the Yargee Tribal Town Court was constitutionally and/or lawfully created.

86. AQTT is entitled to a preliminary and permanent injunction pending a hearing ordering First National to distribute funds from the AQTT accounts necessary for the health and safety of the AQTT members to the AQTT and not to the Yargee Defendants.

87. AQTT is entitled to a preliminary and permanent injunction pending a hearing ordering First National not to honor any orders entered by the Yargee Tribal Town Court.

88. Plaintiff requests the Court issue a preliminary and permanent injunction restraining First National for its unauthorized hold on AQTT accounts. Plaintiff will file a separate Verified Motion for Preliminary Injunction and supporting brief after service of this Complaint upon the Defendants.

PRAYER FOR RELIEF

Wherefore, AQTT respectfully requests the Court:

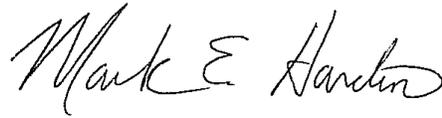
1. Enter an order declaring that that:

- a. The AQTT's removal of Wilson Yargee as Chief and Rovena Yargee as Second Chief comported with due process requirements of the U.S. Constitution and § 1302 of the Indian Civil Rights Act;
 - b. Wilson Yargee's purported establishment of an AQTT Court is not legally authorized by the Oklahoma Indian Welfare Act, and orders issued by it are therefore void *ab initio* as a matter of United States law;
 - c. Wilson Yargee's purported establishment of an AQTT Court violates the sovereignty and self-governance rights of the AQTT under the Oklahoma Indian Welfare Act as a result of its inconsistency with the AQTT Constitution;
 - d. Orders entered by the Yargee Court purporting to bind the AQTT violate the sovereign immunity granted to the AQTT under the Oklahoma Indian Welfare Act;
 - e. Orders issued by the Yargee Court are not entitled to full faith and credit under the U.S. Constitution;
 - f. Wilson Yargee and Rovena Yargee do not have authority to represent AQTT with respect to Public Law 93-638 , the Indian Self-Determination and Education Assistance Act of 1975;
 - g. Wilson Yargee and Rovena Yargee do not have authority to represent AQTT with respect to Section 8(a) of the Small Business Act;
 - h. Wilson Yargee's actions and Rovena Yargee's actions have violated the Corporate Charter issued by the U.S. Department of the Interior pursuant to the Oklahoma Indian Welfare Act, and thereby violated the Oklahoma Indian Welfare Act;
 - i. orders issued by the unlawful court Yargee established, the so-called Yargee Tribal Town Court, that purport to bind the AQTT violate the federally-recognized sovereign immunity of the AQTT;
 - j. Wilson Yargee and Rovina Yargee have no valid claim to the funds held by First National on behalf of AQTT, and that First National should therefore turn over control of the AQTT bank account(s) over to Sam Marshall and/or his designees; and
2. Enter preliminary and permanent injunctions preventing First National from distributing AQTT funds to the Yargee Defendants;
 3. Enter preliminary and permanent injunctions preventing the Yargee Defendants from representing themselves as the authorized leadership of the AQTT;

4. Enter preliminary and permanent injunctions requiring First National to provide Chief Sam Marshall and/or his designee shall have immediate and exclusive access and control of the AQT bank accounts;
5. Award damages in an amount determined by an enlightened jury;
6. Grant such other and further orders and judgments and relief as the Court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2022, I electronically transmitted a full, true and correct copy of the above and foregoing document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to those registered participants of the ECF System, including all counsel of record, and upon the following via U.S. Mail:

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