

IN THE CIRCUIT COURT OF VAN BUREN COUNTY, ARKANSAS
THIRD DIVISION

FILED
2006 MAY 31 AM
ESTER SASS
COUNTY & CIRCUIT CLERK
VAN BUREN COUNTY, ARKANSAS
PLAINTIFFS

DOYLE LEE TURNER; LEON STOCKTON;
PATSY STOCKTON; JAMES COKER; BILL
ROBERTS; KAY STEELE; GLENDA SMEDLY;
DIANE VAN GELDER; AND MARRIANNE BINNON
CHILDERS

VS.

NO. CV 2004-181

THE LOST CHEROKEE OF ARKANSAS &
MISSOURI, INC.; W. K. MAXWELL, JR.,
CLIFFORD BISHOP, CURTIS SMITH, JIM
DAVIS, PHILLIP HUBBARD, DON HARNESS,
MORRIS CHILES, AND JOHN BROWN, Individually
and in their capacity as Directors of The
Lost Cherokee of Arkansas & Missouri, Inc.

DEFENDANTS

ORDER

Comes on for hearing before the Court this 24th day of January, 2006, issues relating to the nature, membership, and existence of the non-profit corporation known as the Lost Cherokee of Arkansas & Missouri, Inc., and "members of the tribe"; and from the testimony, evidence, and all information provided to the Court, the Court so FINDS:

1. The word "member" has been thrown about and used in more than one context which has created a tremendous amount of confusion between the parties.
2. The non-profit corporation by its Articles of Incorporation and By Laws contained three members. They provided that the Corporation could establish criteria for "membership". However, none were actually established for the corporation so there have been no new "members" of the non-profit corporation.

3. In correspondence issued by the corporation, persons were referred to as members. In truth they were probably members of "the tribe", but not of the corporation. The Court cannot find that the two entities are one/albeit the "tribe" is a creature of the corporation which serves as a holding company for "the tribe".

People who were referred to as members were actually members of a group whose names were being gathered for membership in what could become a Federally recognized Indian Tribe.

4. In summary, there are two distinct entities; The non-profit Corporation, which has three members, and never provided for an increase in membership; and "the tribe" which solicited persons who fit within the parameters of membership of an application for Federal recognition of an Indian Tribe. The Corporation is a mechanism which gathered names and submitted the application.

5. Although not all persons referred to as members were included in the list of 731 names submitted for Federal recognition, they could according to applicable C.F.R. 83.12(b) and 87.3 (e) later become members of the Federally recognized tribe. While they would not be included in the "complete base role" of the tribe said role is not the absolute maximum limit on the membership.

6. The Computation of the tribe under applicable C.F.R.'s is a never ending situation depending upon the number of people who satisfy Federal requirements. For application purposes the base role is now complete and the Court cannot find any authority that would authorize it to direct the Federal government to reopen or to in any way expand the base roll.

7. Issues which need to be addressed by the court include the source and use of funds gathered from "members". There should be an accounting of funds from those who were solicited. There is an issue of whether those funds were paid for a purpose, i.e. membership or whether they were paid as donations to the "tribe" in support of its activities seeking Federal recognition. These issues pertain to the solicitation, distribution, and retention of any monies made by the Corporation since its inception.

IT IS SO ORDERED.



CIRCUIT JUDGE

DATE: 6/31/06

APPROVED AS TO FORM ONLY:

John C. Aldworth, Attorney for
Plaintiffs

Kenneth A. Hodges, Attorney for
Defendants