

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MARILYN VANN, RONALD MOON,)
DONALD MOON, HATTIE CULLERS,)
CHARLENE WHITE,)
And RALPH THREAT,)

Plaintiffs,)

v.)

DIRK KEMPTHORNE, Secretary of the)
United States Department of the Interior;)
UNITED STATES DEPARTMENT OF)
THE INTERIOR,)

CHEROKEE NATION OF OKLAHOMA)

CHADWICK SMITH, Individually and in)
His Official Capacity)

John Does, Individually and in their official)
capacity)

Defendants.)

Case No.: 1:03cv01711 (HHK)

Judge: Henry H. Kennedy

**Docket Type: Civil Rights
(non-employment)**

Date Stamp: 08/11/03

MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

Pursuant to Rules 15 of the Federal Rules of Civil Procedure, Plaintiffs for good cause and for the reasons hereinafter set forth, hereby move the Court for an order granting Plaintiffs leave to file their Third Amended Complaint (“Complaint”) for the purpose of adding additional Plaintiffs and asserting additional claims for relief under the United States Constitution and for review of the Bureau of Indian Affairs (“BIA”) decision to deny Cherokee Freedmen the full rights they are entitled to as citizens of the Cherokee Nation. Additionally, Plaintiffs wish to add new factual allegations related to recent actions taken by the Cherokee Nation and the BIA that are relevant to the current suit. The parties and the Court would benefit from this additional information being made part of the record. A copy of the proposed amendment is attached hereto as Exhibit A.

As explained more fully in the attached memorandum of points and authorities in support of this motion, granting Plaintiffs leave to file their amended complaint is justified in that the proposed amendment does not arise from bad faith or undue delay, is not futile and does not risk prejudice to Defendants. Granting Plaintiffs leave to amend is also in accord with the liberal federal policy favoring amendment.

Pursuant to Local Civil Rule 7(m), counsel for Plaintiffs conferred with counsel for the United States and with Counsel for the Cherokee Nation Defendants in a good faith effort to determine whether either party opposed the requested relief. Counsel for the United States did not take a position on the motion. Counsel for the Cherokee Nation stated that because they were unable to review the proposed amendment prior to filing they take no position on the filing of the motion but reserve the right to oppose it.

WHEREFORE, Plaintiffs respectfully request that the Court grant them leave to file a Third Amended Complaint in the form attached hereto.

Dated: July 17, 2007

Respectfully submitted,

_____/s/_____
Alvin Dunn (D.C. Bar No. 423229)
Thomas G. Allen (D.C. Bar No. 484425)
PILLSBURY WINTHROP SHAW
PITTMAN LLP
2300 N Street, N.W.
Washington, D.C. 20037
Phone: (202) 663-8000
Facsimile: (202) 663-8007

Jonathan Velie
VELIE & VELIE
210 East Main Street, Suite 222
Norman, Oklahoma 73069
Phone: (405) 364-2525
Facsimile: (405) 364-2587

Attorneys for Plaintiffs, Marilyn Vann, *et al.*