

In the United States Court of Federal Claims

No. 79-4582L
(into which has been consolidated No. 79-4592L)

(E-Filed: August 5, 2010)

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THE SHOSHONE INDIAN TRIBE OF THE)	
WIND RIVER RESERVATION, WYOMING,)	
	Plaintiff,)	
)	
v.)	Motion to Amend Opinion
)	and Judgment; Motion Granted
THE UNITED STATES,)	
	Defendant.)	
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THE ARAPAHO INDIAN TRIBE OF THE)	
WIND RIVER RESERVATION, WYOMING,)	
	Plaintiff,)	
)	
v.)	
THE UNITED STATES,)	
	Defendant.)	
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ORDER

Before the court is Tribes’ Motion to Alter or Amend Judgment and for Rule 54(b) Certification (Tribes’ Motion or Tribes’ Mot.) filed June 23, 2010, Docket Number (Dkt. No.) 94 and Defendant’s Response to Plaintiffs’ Motion to Alter or Amend Judgment and for Rule 54(b) Certification (defendant’s Response or Def.’s Resp.) filed July 12, 2010, Dkt. No. 95. Defendant summarized the Tribes’ Motion and responded as follows:

Plaintiffs' Motion consists of two parts. In the first part, [p]laintiffs request the [c]ourt make three corrections to its [O]pinion entered May 27, 2010 (see [Dkt.] No. 92). [Tribes'] Mot. 1-2. The United States does not oppose this request. In the second part, after describing in detail the phasing of the claims asserted in this litigation and what has transpired to date ([Tribes' Mot.] [] 2-6), [p]laintiffs request [that] the [c]ourt "enter an amended judgment with respect to this consolidated subdocket only (Nos. [79-4582L] and [79-4592L])¹ and certify the judgment as final for purposes of appeal." [Tribes' Mot.] [] 6. The United States does not oppose this request.

Def.'s Resp. 1. The Tribes' Motion addresses the Tribes' apparent concern that the court's entry of judgment in the above-captioned cases--which are subdockets of Case Numbers 79-458L and 79-459L, see Order filed Aug. 27, 2004, Dkt. No. 419 in Dkt. No. 79-458L and Order filed Feb. 23, 2005, Dkt. No. 4 in subdocket 79-4582L;² see also Order filed June 13, 2001, Dkt. No. 173 in Dkt. No. 79-458L³-- will be misinterpreted in one of the following two ways (presumably not both): either the judgment will be read as (1) dismissing other aspects of the parties' disputes within other case numbers under Docket Numbers 79-458L and 79-459L, or (2) the judgment will not be read as appealable because it does not contain a certification under RCFC 54(b). See Tribes' Mot. 1.

In the court's view the purpose of the creation of one or more subdockets in complex litigation is to provide a vehicle for the treatment of a severable portion of a case as a separate case. The court agrees that the phrase "ENTER JUDGMENT for defendant

¹ The court uses the current CM/ECF case numbering, which places the two-digit indication of the year of filing before the dash and the four-digit case number after the dash. See Docket (Dkt.) 79-4582L, Opinion filed May 27, 2010, Dkt. Number (No.) 92. This departs from the prior case numbering in the CM/ECF system, in which the four-digit portion of the case number preceded the two-digit portion indicating the year of filing. See Dkt. 79-458L, Order filed Feb. 23, 2005, Dkt. No. 426.

² The Order of February 23, 2005 redesignates, inter alia, subdockets 79-458b and 79-459b as 79-4582L and 79-4592L, respectively. See Order filed Feb. 23, 2005, Dkt. No. 4 in Dkt. 79-4582L.

³ This order created additional subdockets, 79-458a and 79-459a, from the original dockets 79-458L and 79-459L. Order of June 13, 2001, Dkt. No. 173 in Dkt. 79-458L. While these subdockets are not at issue in this case, plaintiffs appear to anticipate the dismissal of all subdockets under 79-458L and 79-459L because of the wording of the court's May 28, 2010 Opinion. See Tribes' Motion to Alter or Amend Judgment and for Rule 54(b) Certification (Tribes' Motion or Tribes' Mot.) filed June 23, 2010, Dkt. No. 94, 2.

dismissing Tribes' petitions" in its Opinion of May 27, 2010, see Dkt. No. 92, 21, could be understood by a reader without familiarity with the case as applying to all aspects of plaintiffs' petitions rather than to just those aspects of plaintiffs' petitions addressed in subdockets 79-4582L and 79-4592L in which the court's Opinion and the judgment are filed.

While the court would hope that the public record of the creation of the subdockets and the identification of claims within each (as reviewed in the Tribes' Motion, Tribes' Mot. 4-7) would be adequate to address any temporary confusion, the court agrees that the better course is to amend its Opinion and to direct the amendment of the judgment as proposed by the Tribes, Tribes' Mot. 1-2, and as agreed to by defendant, Def.'s Resp. 1. Accordingly:

1. On page 3 of the May 27, 2010 Opinion, in the first paragraph of the section entitled "Background," is the following sentence:

All other aspects of the case have been resolved.

The sentence shall be changed to read as follows:

All other claims within this consolidated subdocket (Nos. 79-4582L and 79-4592L) have been resolved.

2. On page 21 of the May 27, 2010 Opinion, the second-to-last sentence reads as follows:

There being no further pending claims, the Clerk of the Court shall ENTER JUDGMENT for defendant dismissing plaintiffs' petitions.

The second-to-last sentence shall be changed to read as follows:

There being no further pending claims in this consolidated subdocket (Nos. 79-4582L and 79-4592L), and there being no just reason for delay, the Clerk of Court shall ENTER JUDGMENT for defendant dismissing plaintiffs' remaining claims in this subdocket.

3. The judgment entered on May 28, 2010, Dkt. No. 93, the second-to-last sentence reads as follows:

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that plaintiffs' petitions are dismissed.

The second-to-last sentence shall be changed to read as follows:

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that plaintiffs' remaining claims in this consolidated subdocket (Nos. 79-4582L and 79-4592L) are dismissed.

For the foregoing reasons, the Tribes' Motion is GRANTED.

IT IS SO ORDERED.

s/ Emily C. Hewitt
EMILY C. HEWITT
Chief Judge