

Native American Rights Fund

Indigenous Peoples' Rights

<https://www.narf.org/cases/intertribal-council-of-arizona-v-united-states/>

Campaign and Advocacy

In April 2015, NARF filed a breach of trust case on behalf of the Intertribal Council of Arizona seeking damages for the United States' mismanagement of the Arizona Intertribal Trust Fund.

Status: Active

In April 2015, NARF filed a breach of trust case on behalf of the Intertribal Council of Arizona against the United States in the U.S. Court of Federal Claims seeking damages for mismanagement of the Arizona Intertribal Trust Fund (AITF).

The AITF was established by Congress in 1988 to compensate Arizona tribes for the closure of the Phoenix Indian School, which was an off-reservation boarding school operated by the Bureau of Indian Affairs since 1891. The school's closure allowed the Department of the Interior to exchange the land where the school had been located for privately owned lands of the Barron Collier Company in Florida that would become part of a national wildlife refuge. The Phoenix lands were more valuable than the Florida lands, and Congress approved the land exchange only if the difference in value of the properties went to the AITF and a trust fund for the Navajo Nation. Collier paid some, but not all, of the property value differential and gave the United States notice that they will no longer make the AITF or Navajo Nation trust fund payments. The lawsuit seeks to hold the United States liable for the remaining payments into the AITF.

In July 2015, the United States filed a Motion to Dismiss this case which, in February 2016, the court granted in part and denied in part. In May 2016, the parties to this case ITCA and the United States attempted a voluntary global mediation effort of 53 of their claims along with claims between the United States and Collier, but the mediation was not successful, and the case was returned to active litigation.

In October 2016, the United States and Collier reached a settlement of their claims against each other, which was approved by the court and is being implemented. In December 2016, ITCA filed a First Amended Complaint, which the United States moved to dismiss in February 2017. Briefing on the dismissal motion was completed, but in August 2017 the court terminated the dismissal motion and ordered ITCA to file a Second Amended Complaint. The court also strongly urged the parties to again attempt mediation. A mediation session was held in November 2017 in Phoenix, Arizona, but again, it was not successful.

ITCA filed a Second Amendment Complaint in April 2018, which the United States moved to dismiss. In October 2018 the court granted virtually the entire motion, dismissing all but a portion of one of ITCA's claims. In March 2019, the court granted ITCA's motion for entry of final judgment on the dismissed claims, allowing ITCA to immediately appeal those claims to the U.S. Court of Appeals for the Federal Circuit. Following briefing on the appeal, in February 2020, a 3-judge panel of the Court of Appeals heard oral argument.

In April 2020, the Court of Appeals issued a unanimous decision, affirming in part and reversing in part. The Court of Appeals agreed that two of ITCA's claims were properly dismissed by the lower court. But the Court of Appeals held that a third claim, the claim that the United States failed to hold sufficient security for the trust fund payments due under the Act of Congress establishing the trust funds, should not have been dismissed, and should go forward to be heard on the merits of whether the United States held sufficient security, and if it did not, is it liable to ITCA for damages.

Following the Court of Appeals decision, the parties are taking the opportunity once again to explore settlement of ITCA's remaining claims in this case.

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