

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

Charmaine White Face  
Plaintiff

vs.

Case No. 18-5087

Jerrilyn Church, CEO, Great Plains Tribal  
Chairmen’s Health Board  
James Driving Hawk, Area Director  
Great Plains Area U. S. Indian Health Service  
Defendants

COMPLAINT

I. COMES NOW the Plaintiff, Charmaine White Face, and requests an Immediate Injunction be issued on any P.L. 93-638 Contract by the Defendants, Jerrilyn Church, CEO, Great Plains Tribal Chairmen’s Health Board and James Driving Hawk, Area Director, Great Plains Area Indian Health Service based on the fact that such a contract will be a violation of the following: the Fort Laramie Treaty of 1868, Article 13; Article VI, U. S. Constitution; March 3<sup>rd</sup> Act of 1871; 25CFR450(c) “Community Support for the contract”; 25CFR450 Section 103 (D) “Community Support for the contract”; Amended Regulations 25CFR900: Section 900.3 Policy Statements (a)(1)(2); Section 900.3(b) Secretarial Policy(3)(4); Section 900.4 Effect on existing tribal rights(b); Subpart B- Definitions Section 900.6 Indian/Tribal Organization; and Subpart E- Declination Procedures Section 900.22(b)(e). This case involves a federal official and therefore falls under the federal question jurisdiction of federal court.

II. Plaintiff, Charmaine White Face resides at  
1315 East Saint Charles Street  
Rapid City, Pennington County,  
South Dakota, 57701, (605) 342-1626

**III. Defendant, Jerrilyn Church, CEO, Great Plains Tribal Chairmen's Health Board, resides at, or its business is located at**

2611 Elderberry Blvd

Rapid City, Pennington County,

South Dakota, 57703, (605) 721-1922

**Defendant, James Driving Hawk, Area Director, resides at, or its business is located at**

Great Plains IHS Area Office

115 Fourth Ave. SE Room 309

Aberdeen SD 57401.

**IV. STATEMENT OF CLAIM**

The Defendants, Jerrilyn Church, as the CEO of Great Plains Tribal Chairmen's Health Board (GPTCHB) and James Driving Hawk as the Acting Director of the Great Plains Indian Health Service Area Office by entering into a plan to contract the Sioux San Rapid City Service Unit Health Facility under a Public Law 93-638 contract did violate our Civil and Treaty Rights in the following manner:

1. Under Article 13 of the 1868 Fort Laramie Treaty, the United States agreed to provide health care for members of the Great Sioux Nation. By allowing the Defendants to enter into a contract under PL 93-638, the responsibility of the United States to provide that health care is considerably diminished by transferring the responsibility to the GPTCHB which did not make the Treaty agreement with the Great Sioux Nation, and which does not have a history or record of health administration capabilities including the resources to provide adequate health care for the 28,000 patients of the Sioux San IHS Rapid City Service Unit.

As a patient of the Sioux San Health Facility and member of the Great Sioux Nation, this

constitutes a violation of our rights under the Treaty as we did not agree that the United States should transfer its responsibilities for health care to another entity. The Treaty was made between our nation and the United States and cannot be arbitrarily changed.

2. Under Public Law 93-638, Indian Self Determination Act, my Civil Rights were violated in the following ways:

**25CFR450(c) “Community Support for the contract”**: At no time has the Defendants asked or received support for the contract from the Rapid City Indian Community except for a select few. No proper consultation was afforded to the whole Rapid City American Indian Community by Defendant James Driving Hawk as the Area Director of the Great Plains Area Indian Health Service. I am also a member of the Rapid City American Indian Community and this violated my right to have a voice in who will be responsible for my health care services. This also holds true within **25CFR450 Section 103 (D) “Community Support for the contract.”**

3. My Civil Rights were further violated under the **Amended Regulations 25CFR900. Under Section 900.3 Policy Statements (a)(1)(2)**: At no time were members of the American Indian Community of Rapid City afforded any “Participation” regarding the Defendant Jerrilyn Church’s plan to “638 contract” with the United States Indian Health Service. Also the majority of members of the Rapid City American Indian Community were NOT afforded any participation in any portion of this particular plan.

Regarding **Section 900.3(b) Secretarial Policy(3)(4)** of the Amended Regulations, at no time were members of the Rapid City American Indian Community afforded any “information” or “discretion” with this particular “contractible” program being the Sioux San IHS Health Facility, “to meet the needs of their communities” which is the Rapid City American Indian Community of which I am a member, nor were we involved in the selection of any Advisory Board members, some of whom are convicted felons. The selection was completed by the Defendant, Jerrilyn Church.

Furthermore the Defendants have stated the current facility, Sioux San Health Facility, will be moved to land that is NOT Federal Lands and for which they have no plans to seek “trust” status, while the current facility at 3200 Canyon Lake Drive is in FACT located on Federal Land. This Federal land is a “trust resource” that the members of the Rapid City Indian Community, do NOT want to lose.

**Section 900.4 Effect on existing tribal rights(b):** The Defendants have not upheld the tribal rights of “individual Indians” by planning and beginning implementation of a “638” contract without input from us, individual American Indians and tribal members of the Rapid City American Indian community, to approve the move of the current IHS facility to a location that is not Federal Lands. This will diminish the amount of health care funds available to us as individual Indians as property taxes, insurance, and rent will need to be paid and will be taken from funds for our direct services which constitutes another violation of our Treaty rights to health care.

Our Treaty rights to health care also do not require payment of the 20% copay on Medicare, or the necessity of private insurance which is being advocated by Jerrilyn Church. Other health services such as pharmacy, lab, dental, vision, X-ray, Mammography, to name a few, are currently being provided by the Indian Health Service meets the Treaty obligation and responsibility of the U.S. government.

**Subpart B- Definitions Section 900.6 Indian/Tribal Organization:** All the individual people utilizing Sioux San IHS Health Facility are members of an American Indian Tribe. A majority of the patients are in fact enrolled in one tribe which is part of the Sioux Nation. However, as a member of the Rapid City American Indian Community and residing in Rapid City, I am NOT allowed to vote in elections on my Reservation. Therefore, I am denied equal representation in the Great Plains Tribal Chairmen’s Association, the parent group of the GPTCHB, and furthermore have no representation

on the GPTCHB other than those selected by the Defendant, Jerrilyn Church.

**Subpart E- Declination Procedures Section 900.22(b)(e):** There is no “Adequate protection” of trust resources that is assured by either of the Defendants. By the Defendants planning to move the Sioux San IHS Rapid City Service Unit from its current location which is on Federal Land to a location that is not federal land, the “trust resource” which is the land is not protected.

Furthermore it is the United States Indian Health Service that is responsible to provide adequate health care to the Indian people as listed in Article 13 of the 1868 Fort Laramie Treaty, not the Defendant, the Great Plains Tribal Chairmen’s Health Board. According to the “Mission Statement” of the Defendant, Great Plains Tribal Chairmen’s Health Board, they are “to provide quality public health support and health care **advocacy** to the tribal nations of the Great Plains....”

NO WHERE in their own “Mission Statement” does the Defendant, Great Plains Tribal Chairmen’s Health Board claim to be a hospital administrator. Therefore the plan to “638 contract” the administrative functions of Sioux San IHS Health Facility will cause great harm to the Plaintiff who has a chronic illness and all American Indian people who utilize the Sioux San IHS Rapid City Service Unit, as the Great Plains Tribal Chairmen’s Health Board does not have the necessary and required ability to administrate a health facility and will cause the loss of adequate health administrators and other vital health care personnel such as doctors, nurses, technicians who chose to work for the federal government and will not work for a tribal organization.

A vast majority of employees are not in favor of an Intergovernmental Personnel Agreement as they chose to work for the federal government, not a tribal organization. As members of the Rapid City American Indian community, they also had the right to know ahead of time of this contractual agreement made between the GPTCHB and their

employer, the Indian Health Service. As they did not, their stress levels affect their relationships with their patients such as myself.

**V. RELIEF**

We respectfully ask the Court to issue an IMMEDIATE INJUNCTION to cease all actions of the Great Plains Tribal Chairmen's Health Board and the United States Indian Health Service from contracting the Sioux San IHS Rapid City Service Unit under PL 93-638.

We also ask that the Court order the previous plans for the Sioux San IHS Rapid City Service Unit to be resumed and the construction of the new buildings be located on the current site on 3200 Canyon Lake Drive including the reconstruction and refurbishment of existing buildings as previously planned by the Indian Health Service and the Rapid City Indian Community.

We also ask that the Court order the current administration of the Sioux San IHS Rapid City Service Unit and all employees resume their work in their positions as Federal Employees.

Finally, we ask the Court to declare that all "IPA" contracts with Great Plains Tribal Chairmen's Health Board and the current employees of the Sioux San IHS Rapid City Service Unit be declared "Null and Void" in order that all employees may remain as Federal Employees with their accumulated benefits.

**VI. Money Damages:**

A) Do you claim either actual or punitive monetary damages for the acts alleged in this complaint?

YES [ X ]

NO [ ]

B) If your answer to "A" is YES, state below the amount claimed and the reason(s) you

believe you are entitled to recover such monetary damages:

(1) The Defendants, Great Plains Tribal Chairmen's Health Board and the United States Indian Health Service should pay in the amount of \$100,000.00 to the Plaintiff for causing great emotional and mental anguish, to reimburse Plaintiff's expenses in trying to resolve the issues stated in this Complaint including conducting community meetings and traveling to meet with the Rosebud Sioux Tribal Council, and to provide Plaintiff with the ability to retain a Licensed Federal Attorney to represent the Plaintiff and the American Indian Community of Rapid City in any further legal proceedings, and other costs and expenses deemed just and equitable by the Court.

VII. Do you maintain that the wrongs alleged in the complaint are continuing to occur at the present time?

YES [ X ]

NO [ ]

VII. Are you requesting a Jury Trial?

YES [ ]

NO [ X ]

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 4<sup>th</sup> day of Dec., 2018.

  
Charmaine White Face, Pro Se



JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Charmaine White Face

(b) County of Residence of First Listed Plaintiff Pennington  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro Se

**DEFENDANTS**

Jerrilyn Church, CEO, GPTCHB  
James Driving Hawk, IHS Area Director  
County of Residence of First Listed Defendant Pennington  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

US Constitution, Article VI ; 25 CFR

Brief description of cause:

Taking Health Care responsibility under Treaty provision away from U.S.govt.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

Dec. 4, 2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_