

**IN THE BLACKFEET TRIBAL COURT
FOR THE BLACKFEET INDIAN RESERVATION**

IN THE MATTER OF: THE ESTATE OF:
JOHN 'TWO GUNS' WHITE CALF
LEAD PLAINTIFF, KENNETH CONWAY JR.
ON BEHALF OF THE ENTIRE ESTATE CLASS
PLAINTIFF

V.

CASE NO: 2024CA-139

THE WASHINGTON COMMANDERS,
FORMERLY THE WASHINGTON REDSKINS,
FORMER OWNER DAN SNYDER,
MANAGING PARTNER JOSH HARRIS,
THE NATIONAL FOOTBALL LEAGUE,
THE ESTATE OF WALTER "BLACKIE"
WETZEL, REPRESENTATIVE RYAN
WETZEL, CHRIS WHITE CALF,
THOMAS WHITE CALF, DELPHINE
OLDERPERSON AKA WHITE CALF,
EVERETT ARMSTRONG, BLACKFEET
COUNCIL, RODNEY GERVAIS, JR.,
BLACKFEET COUNCIL, AND ANY
AND ALL OF THEIR AGENTS
DEFENDANTS

MOTION FOR JOINDER

DEPARTMENT OF THE
INTERIOR AS A
NECESSARY THIRD
PARTY

COMES NOW the Plaintiff, Kenneth Conway Jr., P.O. Box 1337 Browning MT 59417 on
behalf of the entire Estate of John Two Guns White Calf pursuant to Blackfeet Civil
Code Rule 18 **AND** F.R.C.P. 19 Joinder of Persons Needed for Just Adjudication:

(a) Persons to be joined if feasible. A person who is subject to the service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of this action shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person shall be made a defendant, or in a proper case, an involuntary plaintiff. If the joined party objects to venue and joinder of that party would render the venue of the action improper, the party shall be dismissed from the action.

2. Plaintiff argues F.R.C.P 19 (a) is appropriate in this case stating the Department of the Interior has (1) a simultaneous role as a trust fiduciary of the Estate of Two Guns White Calf, (2) whilst being a party in the land transfer of the RFK Stadium subject to this action. (3) As a trustee of Indian lands formerly owned by the Two Guns family and adjacent familial lands: lands consisting of 10,000+ acres known as the King Ranch. As a trustee, this status makes the Interior agency a plaintiff and/or involuntary plaintiff pursuant to Rule 19, should the agency refuse to be joined, it will be necessary for the Estate to sue the agency as a defendant. Further, the land where the former Washington Redskins conducted business was owned, operated and controlled by the Department of the Interior for the entire time the Estate

suffered economic losses in the violation of the right of publicity, licensing and appropriation practiced by the Defendant(s). The appropriation began in 1970, 34 years after the death of the decedent in 1934. (3) The agency failed at every turn to follow the provisions of the NHPA Section 106 requirement to properly consult with the estate from 1970 to 2025.

3. The Plaintiff class stands to suffer irreparable damage should the court refuse the joinder. The agency signed off on the RFK stadium land transfer without compliance with the National Historic Preservation Act, in particular Section 106 that mandates tribal consultation. We cannot see how the agency can separate the issues to deny the joinder; it would be specious at best.

THE COUNTS

I. NEGLIGENCE

a. Duty

The Defendant has a duty to the Blackfeet Tribe AND to the Plaintiffs by way of treaty obligation but also on an individual level through trust management of individual property. The Defendant repeatedly violated that trust duty to 1) monitor the tribe to ensure it was meeting its

obligations under the ICRA and 2) to ensure the intellectual property (right of publicity) was lawfully upheld and enforced.

b. Breach of Duty

The Defendant breached that duty by 1. Allowing the tribe to break ICRA protections. 2. Allowing the Wetzel estate to violate the norms of intellectual property law. 3. Allowing the Redskins to use an image without lawfully compensating his estate. 4. Allowing the image to be used with multiple parties in violation of law and doctrine on a federally assisted property for a 50 year period. 5. Failed to follow the National Historic Preservation Act, Section 106 federal law that require the Interior to “oversee” through non-delegation, a lawful consultation process with the stake holder Estate.

c. Cause in Fact

The Defendant is one party in the cause in fact of violations, harm and damages suffered by the plaintiffs over a fifty year period as the agency backed the white privilege of the Redskins owners several times over with George Preston Marshall, Jack Kent Cooke, Edward Bennett Williams, John Kent Cook, Dan Snyder and now Josh Harris and the Washington

Commanders investment group. No where in this historic time line that begins in 1932 is there a record that the federal agency ever made even a scant effort to consult with the estate under the provisions of NHPA.

d. Proximate Cause

The Defendant, with the NFL, previous owners and current owners of the team and the NFL are the proximate cause of harm, injury and losses suffered by the plaintiffs. Plaintiffs have never been acknowledged in the 50 years the NFL and team in partnership; financially benefited from the use of the image, iconography, reputation and likeness of the decedent.

II. GROSS NEGLIGENCE IN THE DUTY OF CARE IN UPHOLDING THE
FEDERAL REQUIREMENTS OF THE NATIONAL HISTORIC PRESERVATION
ACT

1. WILLFUL, WANTON & RECKLESS DISREGARD FOR THE WELL BEING OF
ESTATE PLAINTIFFS TO WHOM A TRUST OBLIGATION IS OWED. FAILURE TO
CONDUCT TRIBAL CONSULTATION PURSUANT TO NHPA WITH THE
STAKEHOLDER ESTATE: The Defendant, the Secretary of the Interior failed to
follow federal law pursuant to its role as a fiduciary in its trust obligations to

the Blackfeet Tribe by failing to require and follow tribal consultation that is enshrined in the NHPA.

- a. For the entire time the Redskins used the logo, it was done on federal property. No consultation was ever done with tribal stakeholders, including the estate of the man whose image was being appropriated on federal property—the Estate of John Two Guns White Calf.
- b. Section 106 requires tribal consultation. In the Reply to the Blackfeet Tribe’s Motion to Dismiss; the Plaintiffs explain the misconduct by repeated tribal officials, and reiterate those here for the record in full as the example as to why this family who possess and retain publicity rights of the decedent should at this point in time be the exclusive consulting party to meet the criteria set forth in [CONSULTATION WITH INDIAN TRIBES](https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf), <https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf>
- c. The Department of the Interior failed to enact Sec. 106 for the benefit of the Estate of Two Guns White Calf on federal property even though his imagery was invoked and exploited on that property for half a century and failed to uphold its trust obligations to the family of a very prominent Native American figure.

2. COMPLETE DISREGARD FOR THE LIVES AND WELL BEING OF THE

PLAINTIFFS. The cause in fact addressed above resulted in economic losses, loss of stature in their tribe, loss of their culture and artifacts, and loss of a standard of living as a result of allowing the family wealth to be plundered by the Catholic Church. The Interior allowed the commercial exploitation of the imagery and iconic image of their ancestor to be used for the commercial gain of others without fulfilling trust obligations, including collection of interest on royalties that should have accrued to the family. The use of the logo on federal property for the entire debacle of the Redskins using the imagery of the decedent, John Two Guns White Calf, who was the ancestor of the Plaintiffs.

- a. For the entire 50 years the team used the logo, the Department of the Interior maintained federal property for the exclusive benefit of the Washington Redskins without compensation to the Estate.

3. Extreme & Egregious Conduct that Should Shock the Conscience of the Court.

The actions of the Interior agency reflect gross negligence toward the Estate of John Two Guns Whitecalf over a 50 year period. Restating all of the above in entirety: The agency has an obligation to reverse a long campaign of erasure of the descendants of this venerated Indian Chief.

4. Lastly, on February 13, 2025—the tribe with counsel, admitted the estate were the descendants with irrefutable historic evidence based on official government sources submitted to the court. The tribe made no objection to the evidence presented that are official documents, including electronic evidence of the actual tribal genealogical database along with actual death certificates spanning four generations of the Two Guns White Calf family.
5. Notably, the tribe is the sole, exclusive and ultimate arbiter of this question. No one else has the authority to determine this question. This question is beyond the power and scrutiny of the federal courts, Congress and this agency.
6. With respect to the claims of the Wetzel estate, the Plaintiffs reiterate the former Walter Wetzel and now his estate, have acted without authorization from this estate to proffer the image of our deceased grandfather for use in a commercial sport franchise. Walter Wetzel simply never had authority to do this.
7. On November 24, 2024 the Commanders team announced they were uncancelling the logo for one reason: to make more money off the pilfered image of our ancestor.

8. THIS CASE IS A CONTINUING TORTIOUS WRONG CAUSING ON-GOING HARM TO THE ESTATE. Plaintiffs through the trust obligations and doctrine the Defendant has to this tribe and tribal member (estate) argue the imposition of FRCP 15 (Relation Back) the current actions relate back to historic abuse of the logo, the violation of the right of publicity and the use of the name, iconography, fame, reputation and social standing of our ancestor in disparagement actions where he was placed alongside a racial slur “Redskins” as modern vernacular of the term was intended to be derogatory.
9. PUBLICLY AVAILABLE ELECTRONIC DISCOVERY show the NFL and Team in fact violated the right of publicity of the Estate, and the Estate seeks enforcement of the trust obligations owed by the Defendant.

[\(103\) Redskins Logo History | Chief "Two Guns" White-Calf | Walter "Blackie"](#)

[Wetzel | The Blackfeet Nation - YouTube](#) LINK:

<https://www.youtube.com/watch?v=mP3bt-hv4is>

Wherefore the Estate prays for the following:

1. Plaintiffs realize they are largely limited to affirmative relief in this action against THIS Defendant and intend to proceed through administrative litigation on a Federal Tort Claims Act action before the agency itself. We are

aware we cannot seek punitive damages as such. We ARE aware this court has equitable power to provide affirmative relief. We seek this equitable relief at this time.

2. Plaintiffs seek enforcement by this court of entirety of all requirements upon the defendant consistent with [ConsultationwithIndianTribesHandbook6-11-21Final.pdf](#) . These are federal law requirements upon the Defendant.
3. The Estate intends to raise “Two Guns White Calf Consulting” to meet the directives of federal law AND will work in partnership with the Blackfeet THPO to achieve the lawful outcomes the Defendants have evaded for 50 years. In this arrangement, the family-held consulting firm must be consulted per federal handbook, at full cost to the agency. Part of this consultation is the need for attorneys, accountants and procurement of other professional services in addition to our own expertise.
4. A working memorandum with the Blackfeet Tribe THPO be enforced that meets the duty standard of all parties.
5. An Order that will impose a partnership with the Estate in the redevelopment of the RFK Stadium site with the league, team and city of DC that proposed to bring 1.4B annually to the site: of which the estate and to a broader degree – the tribe will receive nothing. This hardly seems fair.

6. An Order that will impose a royalty agreement of 15% the highest level available based on the fame and statute of the decedent—upon the team and league. That such an agreement is enforced by the Defendant agency per its trust duty. That such agreement will backdate compensation pursuant to FRCP 15 as a continuing wrong/ongoing harm upon the Plaintiffs.
7. An Order directing logo re-design upon the Defendants. The family would like their own artists to redesign the logo that is more akin to the likeness of the decedent.
8. An Order imposing a name change on the team and league with an enforceable royalty arrangement for future years. The family has selected a name to present to the team and league as well as artist to redesign of the logo that more suitably represents the Decedent.
9. An Order for payment of costs of the Estate related to this suit to be split between the Blackfeet Tribe and the Department of the Interior, and corporate defendants the NFL and Commanders team.
10. And Order Compelling the Defendant to perform its trust duties fully.
11. An Order Compelling immediate mediation between the tribe, Interior and the estate to define trust duties and obligations owed and roles of the tribe and

interior in supportive capacity of the Estate going forward beyond 2030 when the RFK stadium is to be completed and further as needed.

12. An Order to monitor the tribe and agency for the duration leading to 2030 and any extensions of court monitoring of the Defendants and that Defendants be compelled to submit updates every six months as needed to the court as they were not able to monitor themselves.
13. An Order to monitor the NFL and team every six months until 2030 and thereafter if needed, upon the petition of the Plaintiffs as the corporate defendants were unwilling to abide by lawful norms of this country in the treatment of the estate of the Decedent.
14. An Order of Findings of Fact and Conclusions of Law enforcing and affirming the findings of the February 13, 2025 hearing wherein the Plaintiff Kenneth Conway Jr. submitted evidence and proof of ancestry on behalf of the estate and the tribe accepted the evidence as factual as the sole and exclusive arbiter. Moreover. the Plaintiffs ask for Order affirming the Blackfeet Tribe did not contest the evidence and have raised no appeal of the irrefutable evidence submitted by the Plaintiff Conway in favor of the Estate.
15. Any and all relief the Court deems just and proper.

Signed this _____ day of April, 2025.

Kenneth Conway Jr., Plaintiff

CERTIFICATE OF SERVICE

I, Kenneth Conway, of P.O. Box 504 East Glacier Park, MT 59434, certify that a true and correct copy of this complaint was served upon the Defendant by certified mail to the Department of the Interior at the following addresses:

Civil Processing Clerk
Office of the US Attorney
James F. Battin Federal Building
2601 Second Ave. North, Ste. 3200
Billings, MT 59101

US Attorney General
US Dept. of Justice
950 Pennsylvania Avenue NW, Room 4400
Washington DC 20530

And: Courtesy copy to:

Blackfeet Tribe, Secretary Pat Armstrong Jr.
P.O. Box 850
Browning MT 59417