ORIGINAL

FILED
SUPREME COURT
STATE OF OKLAHOMA

JUL 23 2024

JOHN D. HADDEN
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

THE CHEROKEE NATION,
a federally recognized Indian Tribe,
17675 S. Muskogee Ave.
Tahlequah, OK 74464,

THE CHICKASAW NATION,
a federally recognized Indian Tribe,
520 E. Arlington St.
Ada, OK 74820

THE CHOCTAW NATION,
a federally recognized Indian Tribe,
1802 Chukka Hina Dr.
Durant, OK 74701, and

THE CITIZEN POTAWATOMI NATION,
a federally recognized Indian Tribe,
1610 S. Gordon Cooper Dr.
Shawnee, OK 74801,

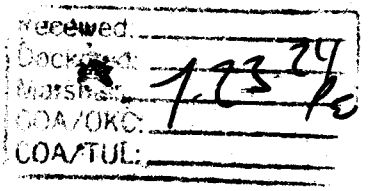
Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, DAVID BERNHARDT, in his official capacity as the Secretary of the Interior, TARA KATUK MAC LEAN SWEENEY, in her official capacity as the Assistant Secretary of the Interior – Indian Affairs,
United States Department of the Interior,
1849 C Street N.W.
Washington, DC 20240,

J. KEVIN STITT, in his official capacity as the Governor of the State of Oklahoma,
2300 N. Lincoln Blvd., #212
Oklahoma City, OK 73105,

WILLIAM NELSON, SR., in his official capacity as the Chairman of the Business Committee of the Comanche Nation,
584 NW Bingo Rd.
Lawton, OK 73507,



No. 122,108

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

THE CHEROKEE NATION, a federally recognized Indian Tribe, 17675 S. Muskogee Ave. Tahlequah, OK 74464, THE CHICKASAW NATION, a federally recognized Indian Tribe, 520 E. Arlington St. Ada, OK 74820 THE CHOCTAW NATION, a federally recognized Indian Tribe, 1802 Chukka Hina Dr. Durant, OK 74701, and THE CITIZEN POTAWATOMI NATION, a federally recognized Indian Tribe, 1610 S. Gordon Cooper Dr. Shawnee, OK 74801, Plaintiffs, v. UNITED STATES DEPARTMENT OF THE INTERIOR, DAVID BERNHARDT, in his official capacity as the Secretary of the Interior, TARA KATUK MAC LEAN SWEENEY, in her official capacity as the Assistant Secretary of the Interior – Indian Affairs, United States Department of the Interior, 1849 C Street N.W. Washington, DC 20240, J. KEVIN STITT, in his official capacity as the Governor of the State of Oklahoma, 2300 N. Lincoln Blvd., #212 Oklahoma City, OK 73105, WILLIAM NELSON, SR., in his official capacity as the Chairman of the Business Committee of the Comanche Nation, 584 NW Bingo Rd. Lawton, OK 73507,	)	No. 122,108

JOHN R. SHOTTON, in his official capacity as the Chairman of the Tribal Council of the Otoe-Missouria Tribe of Indians,
8151 Hwy 177
Red Rock, OK 74651,

JOE BUNCH, in his official capacity as the Chief of the United Keetoowah Band of Cherokee Indians in Oklahoma,
18263 Keetoowah Cir.
Tahlequah, OK 74464, and

BRIAN GIVENS, in his official capacity as the Mekko of the Kialegee Tribal Town,
100 Kialegee Dr.
Wetumka, OK 73883,

Defendants,

and

GENTNER DRUMMOND, in his official capacity as the Attorney General of the State of Oklahoma,

Real Party in Interest.

GOVERNOR J. KEVIN STITT'S ANSWER BRIEF

SUBJECT INDEX

INTRODUCTION

In his zeal to take over (and apparently concede) a federal district court case that has been pending for four years, the Attorney General claims to have "supreme" authority to determine and advance Oklahoma's interests in that case and all other litigation. His theory is flawed in multiple respects. It conflicts with Oklahoma statutory and constitutional law, rests on mischaracterizations of the underlying questions of federal law, and would lead to absurd and chaotic results for the representation of Oklahoma's interests in court.

As Governor Stitt explained in his opening brief, the Oklahoma Legislature long ago authorized the Governor to do exactly what he did in the underlying federal case: to "employ counsel to protect the rights or interests of the state" at *his* "direction," not the Attorney General's. 74 O.S. § 6. That statutory authority aligns with the Governor's constitutional role as "Chief Magistrate" who holds the "Supreme Executive power" and who alone possesses the authority to "cause the laws of the State to be faithfully executed." Okla. Const. art. VI, §§ 2, 8. In appointing his chosen counsel to represent him in this case, the Governor thus acted consistently with his express statutory *and* constitutional duties.

The Attorney General nonetheless proclaims that *he* is "supreme in litigation," though neither that phrase nor anything like it appears in any Oklahoma statute or the Oklahoma Constitution. He rests that theory on one snippet of one statutory provision, which says that he may "take and assume control" over certain litigation involving Oklahoma's interests. 74 O.S. § 18b(A)(3). But he ignores the rest of the relevant statutory provisions, which make clear that his litigation authority is *subordinate* to the Governor's power, and relies on authorities that do not support his theory.

Finally, nothing in the Attorney General's articulation of his theory mitigates the untoward consequences of his position, which would allow him to usurp any representation of

the Governor and Legislature, even to take a different position from those of the elected officials he claims to represent in court. He tries to downplay these serious concerns by promising to responsibly use the sweeping power that he asserts, but ethical rules and Oklahoma's separation of powers exist so that the public need not rely on vague promises of benevolence. This Court should reject the Attorney General's arguments and answer the certified question in the negative.

ARGUMENT

I. The Governor Indisputably Has Authority To Employ Counsel At His Direction.

As the Governor has explained (Br. 5-6), he properly retained counsel to represent him in the federal litigation pursuant to 74 O.S. § 6, which authorizes the Governor "to employ counsel to protect the rights or interests of the state," and to "direct[]" that counsel how to "plead in any cause, matter, or proceeding in which the state is interested or a party." That statutory authority flows directly from the Governor's "Supreme Executive power" as "Chief Magistrate" under the Oklahoma Constitution, including his power to "cause the laws of the State to be faithfully executed." Okla. Const. art. VI, §§ 2, 8; *see* Stitt Br. 6. The Attorney General offers three reasons why Section 6 does not authorize the Governor to choose his own federal counsel over the Attorney General's objection, but none is persuasive.

First, the Attorney General asserts without explanation that the Governor's "authority to retain counsel has no effect on the Attorney General's authority to assume control of litigation of the State's interest." Br. 11. But he ignores that Section 6 empowers the Governor not only to appoint counsel but also to "direct[]" that counsel about how to proceed in litigation, 74 O.S. § 6.

Second, the Attorney General argues that Section 6 is merely a "gap-filling" measure that authorizes the Governor to appoint counsel only when the Attorney General is unable to

act or needs additional assistance. Br. 8. There is no such limitation in the plain text of the statute. *See St. John Med. Ctr. v. Bilby*, 2007 OK 37, ¶6, 160 P.3d 978, 979 ("When statutory language is unambiguous, no further construction is needed, and the unambiguous language will be applied as written."). And the two cases that the Attorney General cites for that proposition provide no support for any such atextual limitation. The Attorney General first relies on *Viers v. State*, 1913 OK CR 250, 134 P. 80, 86, but *Viers* did not address the Governor's authority to retain counsel, let alone suggest that it was limited to gap-filling situations. That case concerned whether a county attorney had lawfully appointed an assistant. In concluding that the appointment was unlawful, this Court explicitly *contrasted* the county attorney's authority with the power of the Governor "to employ counsel to protect the rights or interests of the state in any action, civil or criminal, and the counsel so employed under the direction of the Governor." *Id.*

The Attorney General next relies on *State v. Hudson*, 1929 OK CR 287, 279 P. 921, 922, but that case likewise does not help his argument. There, this Court upheld the constitutionality of Section 6 in an appeal arising from a grand jury proceeding in which counsel appointed by the Governor under Section 6 had participated. The Court observed in passing that the special counsel in that case had not "supersede[d] the county attorney," but rather merely assisted him. *Id.* at 922. This Court said nothing to suggest that—contrary to its text—Section 6 *limits* the Governor's appointment power to that role.

The Attorney General contends (at 10) that when the Legislature wants to give the Governor superior power to employ counsel that supersedes the Attorney General, it has done so expressly. His sole authority for that proposition is a century-old statute, since repealed, that authorized the Governor to appoint special counsel to enforce Prohibition laws and to "call

upon the Attorney General or his assistant" to enforce those laws "*in lieu of, or in addition to*," the Governor's appointed counsel. *See Childs v. State*, 1910 OK CR 230, 113 P. 545, 546, 548 (emphasis added) (quoting 1908 Okla. Sess. Laws 594). That statute, however, supports the *Governor's* argument, not the Attorney General's. The fact that the Legislature needed to specifically authorize the Governor to call upon the Attorney General to appear "in lieu of, or in addition to" the Governor's chosen counsel shows that the default is that the Governor's chosen counsel would displace the Attorney General in a given case. And of course, it is another example of a statute that, like 74 O.S. § 18b(A)(3) (*see infra*, p. 5-6), recognizes that the *Governor* has the authority to direct the *Attorney General*, not the other way around.

Third, the Attorney General repeats his argument that even if the Governor's authority to appoint counsel under Section 6 cannot be overridden by the Attorney General, the Governor lacks authority under Section 6 in this case because, in the Attorney General's view, the Governor is not acting to "protect the interests of the state." Br. 11. The Governor has already explained the two problems with this argument. *See* Stitt Br. 7-8. When Section 6 refers to the "interests of the state," that phrase indicates the State's interests *as the Governor determines them*, not as the Attorney General does. The statute provides that the Governor may "employ counsel" and give that counsel "direction" as to how to proceed in the litigation. 74 O.S. § 6. That authority would be meaningless if the Attorney General could override the Governor's judgments about the "interests of the state" and stop him from directing his chosen counsel. The Attorney General is also simply wrong about the State's interests here. The Attorney General contends (at 11) that the Governor "asked a federal court to disregard Oklahoma law and binding precedent of this Court," but the Governor has done no such thing. On the contrary, the Governor acknowledged that the Oklahoma Supreme Court issued a ruling

that certain compacts "were invalid under Oklahoma law." [ECF No. 154-1 at 14]. The Governor has instead explained—in a lawsuit in which he was named as a defendant—that as a matter of *federal law*, state-law decisions cannot unwind the U.S. Secretary of the Interior's approval of a gaming compact under the Indian Gaming Regulatory Act. [ECF No. 154-1 at 23].

II. The Attorney General Lacks Authority To Seize Litigation From The Governor.

The Attorney General contends that even if the Governor properly appointed counsel pursuant to 74 O.S. § 6, the Attorney General has superior authority to "take and assume control" of the litigation under 74 O.S. § 18b(A)(3). In making that argument, the Attorney General misreads statutory text and precedent, contravenes Oklahoma's constitutional structure, and ignores the absurd and chaotic consequences of his position.

A. The Attorney General's Position Conflicts With Statutory Text And Precedent.

1. The Attorney General argues (at 6) that 74 O.S. § 18b(A)(3) empowers him to seize litigation from the Governor. But as the Governor has explained, both the full text of Section 18b and language in neighboring Section 18c make clear that the Attorney General's authority to take and assume control of litigation from other *State litigators* does not allow him to override the Governor's authority to hire and direct counsel. *See* Stitt Br. 9-12. The Attorney General has no persuasive responses to those textual points.

Starting with Section 18b, the Attorney General repeatedly relies on one statutory phrase—"take and assume control"—while ignoring language earlier in the provision stating that the Attorney General may be *required* to appear "at the request of the Governor." 74 O.S. § 18b(A)(3); *see Ghoussoub v. Yammine*, 2022 OK 64, ¶ 19, 518 P.3d 110, 114-15, *reh'g denied* (Sept. 13, 2022) ("When interpreting statutes, we do not limit our consideration to a

single word or phrase. Words used in a part of a statute must be interpreted in light of their context and understood in a sense that harmonizes with all other parts of the statute.") (citation omitted). That subordinating language makes clear that the Attorney General's authority is second to the Governor's: it would make no sense for the Legislature to provide that the Attorney General can take control of litigation "from anyone, including the Governor," Drummond Br. 6, while simultaneously giving the Governor authority to require the Attorney General to appear "at [his] request." *See* Stitt Br. 9-10.

Even worse, the Attorney General cannot explain the neighboring provision of Section 18c(4)(a), which vests legal duties in the Attorney General "*provided that*" "the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title." 74 O.S. § 18c(4)(a). By expressly carving out the Governor's Section 6 authority as one that survives the Attorney General's general litigation powers, Section 18c forecloses the Attorney General's argument that he can override the power of the Governor under Section 6.

2. The Attorney General offers several counterarguments for why he believes 74 O.S. § 18b(A)(3) empowers him to take over the litigation here, but none works.

First, the Attorney General argues that if there is a conflict between Sections 6 and 18b, the latter should control because it was enacted later. Br. 9. That principle has no application here. An "earlier statute will not be repealed by a later statute unless there is a conflict between the two which is irreconcilable." *State ex rel. Cartwright v. Georgia-Pac. Corp.*, 1982 OK 148, 663 P.2d 718, 723. Here, there is no conflict. The two statutes are in perfect harmony: the Attorney General may take and assume control of litigation from subordinates in the

executive branch, but not from the Governor, who retains authority under Section 6 to employ his own counsel. *See* Stitt Br. 12-13.

The correct statutory interpretation principle that applies here is that "where there are two statutes upon the same subject, the earlier being special and the latter general, the presumption is, in the absence of an express repeal, or an absolute incompatibility, that the special is intended to remain in force as an exception to the general." *In re Mosier's Estate*, 1925 OK 45, ¶ 12, 109 Okla. 228, 235 P. 199, 202. Here, Section 18b is a more general law providing for the Attorney General to take and assume control of litigation, including at the Governor's direction. Section 6, on the other hand, is specific: it empowers the Governor to retain counsel of his choice and direct that counsel how to proceed in litigation. *See* 74 O.S. § 6.

Second, the Attorney General contends that he can override the Governor's litigation decisions because "the Oklahoma House of Representatives and Senate both requested the Attorney General take and assume control of the State's interest in the DC Gaming Litigation." Br. 4. That is simply false. When the Attorney General says that the Legislature requested that he take control of the litigation, what he really means is that is that he attached to his "Notice of Appearance" in the federal district court two letters from individual Oklahoma legislators, the Speaker of the House and the President Pro Tempore of the Senate, supporting his appearance in the case. [ECF No. 176-1 and 176-2]. But as another legislator subsequently explained, the Oklahoma House never voted on a resolution to endorse the Speaker's letter, and as such it represented only the Speaker's "personal viewpoint, not . . . the collective stance of the House of Representatives." [ECF No. 178-1]. The Attorney General contends in a footnote that the Speaker and the President Pro Tempore were authorized to act "on behalf of

each of their respective legislative chambers." Br. 5 n.3. But the only authorities that he cites for that proposition are internal rules that permit the Speaker and the President Pro Tempore to "*engage legal counsel* on behalf of their respective bodies." *Id.* (emphasis added). Those rules say nothing about when and how the Speaker and President Pro Tempore are permitted to speak for their respective bodies in the first place. The federal district court correctly rejected the Attorney General's attempt to invoke the Legislature's endorsement as unsupported by any "persuasive authority." [ECF No. 190 at 9 n.2].

Third, the Attorney General repeatedly invokes one sentence in *State ex rel. Derryberry v. Kerr-McGee Corp.*, 1973 OK 132, 516 P.2d 813, to support his attempt to assert total control over litigation. *See* Stitt Br. 12-13. In *Derryberry*, this Court stated that "[i]n the absence of explicit legislative or constitutional expression to the contrary," the Oklahoma Attorney General "possesses complete dominion" over "every litigation *in which he properly appears in the interest of the State*, whether or not there is a relator or some other nominal party." *Id.* at 818 (emphasis added). That key qualification dooms the Attorney General's argument. As the federal district court explained, the Attorney General's reliance on *Derryberry* "bypasses the key issue here: whether he may properly appear here in the first place." [ECF No. 190 at 4]. Nor is the Attorney General trying to take over litigation from a mere "relator" or "nominal party," but rather from Oklahoma's Chief Magistrate. In any event, *Derryberry* focused on an Attorney General's authority to settle and dismiss suits that he had initiated, *see* 516 P.2d at 818—not about his power to usurp representation of a client against his wishes. *Derryberry* thus has no relevance here.

B. The Attorney General's Position Conflicts With The State Constitution.

As the Governor has explained (at 13-15), the Attorney General's theory would also conflict with the Governor's constitutional role. The Attorney General contends that the State

Constitution poses no barrier to his taking control of *any* litigation involving the interests of the state from "anyone," including the Governor. Br. 6-8. But his position contravenes the constitutional text and this Court's precedents.

The Oklahoma Constitution vests the "Supreme Executive power" in the Governor. Okla. Const. art. VI, § 2. And the Constitution expressly provides that the Governor, not the Attorney General, "shall cause the laws of the State to be faithfully executed, and shall conduct in person or in such manner as may be prescribed by law, all intercourse and business of the State with other states and with the United States." *Id.* § 8. Yet the Attorney General attempts a sweeping rewrite of the constitutional division of powers, asserting that "the power of the Attorney General is *supreme* in litigation involving the interests of the State." Br. 7 (emphasis added). Under his view of the law, the Governor may not defend himself in court if the Attorney General disagrees with his legal positions. Nor can he vindicate the interests of the State in court if the Attorney General objects. It is hard to see how the Governor can exercise "Supreme Executive power" as "Chief Magistrate" if his decisions on a constitutional prerogative can be unwound or preempted by another executive officer.

The Attorney General emphasizes that "Oklahoma does not consolidate all executive power in a single officer." Br. 5. The Governor does not contend otherwise. But the power to choose counsel and direct that counsel how to proceed in litigation involving the Governor's actions on behalf of the State falls squarely within the Governor's constitutional sphere as the executive officer with the power to take care that the laws are faithfully executed. And to the extent that litigation decisions fall within two executive officers' spheres, there can be no doubt that the Oklahoma Constitution imposes a hierarchy among them, by naming the Governor as the "*Chief* Magistrate" who holds "*Supreme* Executive power." Okla. Const. art. VI, § 2

(emphases added). Those words have meaning, just as the word "Supreme" has meaning in defining this Court as the "Supreme Court" of the State. *See Davis v. Thompson*, 1986 OK 38, ¶ 9, 721 P.2d 789, 791 ("Every provision of the Constitution of Oklahoma is presumed to have been intended for some useful purpose and every provision should be given effect.").

The Attorney General also points out that the Governor is "without authority to exercise a discretion not validly and specifically granted by the statutory law and not within the power conferred upon the Chief Executive by the Constitution." *Stitt v. Treat*, 2024 OK 21, ¶ 21, 546 P.3d 882, 891 (*Treat III*) (citation omitted). But that simply begs the question. The Governor *is* exercising a power specifically granted to him by statute under 74 O.S. § 6. And that power is one "conferred upon" him "by the Constitution," which empowers him to cause the laws to be faithfully executed.

Finally, the Attorney General attempts to distinguish (at 11-13) the helpful guidance of the Alabama Supreme Court in *Riley v. Cornerstone Community Outreach Inc.*, 57 So. 3d 704 (Ala. 2010), which rejected an attempt by Alabama's Attorney General to wrest control of litigation from its Governor based on the exact same argument that the Attorney General makes here. *See* Stitt Br. 15. The Attorney General tries to distinguish *Riley* on the basis that the Oklahoma Governor does not "have powers like that of the Governor of Alabama" because "the Governor of Alabama may exercise executive power . . . 'even in the absence of a specific grant of authority by the legislature.'" Br. 12 n.5 (citing *Riley*, 57 So. 3d at 722-23). Any such difference is irrelevant to this case, however, because here the Governor *does* seek to exercise "a specific grant of authority by the legislature"—namely, his power to hire counsel "to protect the rights or interests of the state in any action or proceeding." 74 O.S. § 6; *see supra*, pp. 2-

5. *Riley* provides valuable guidance, and this Court should reject the Attorney General's argument just as the Alabama Supreme Court did.

C. The Attorney General's Position Leads To Illogical And Implausible Consequences.

Importantly, the Governor's position in this case does not leave the Attorney General without an opportunity to express his contrary view in the federal litigation: he is free to file an amicus brief in that case, or even to pursue intervention in the litigation. What he cannot do is usurp the Governor's defense over his objection. The consequences of that position are untenable, and the Attorney General's brief does nothing to dispel them.

As the Governor has explained, the Attorney General's theory would allow him to override the Governor's litigation choices in every case (even in cases in which the Governor has *sued* the Attorney General, *see, e.g. Stitt v. Drummond*, No. CV-2024-606 (Okla. Dist. Ct. filed Mar. 7, 2024)). Unfortunately, that is not a remote concern. In a case being held in abeyance pending the resolution of this certified question, the Attorney General took over the State's prosecution of a digital-wallet-technology company, and then filed a dismissal with prejudice of the State's own case. *See State of Oklahoma ex rel. Office of Mgmt & Enter. Servs. v. Kleo, Inc.*, No. CJ-2024-619 (Okla. Dist. Ct.). The Attorney General's theory would also allow him to take over—and sabotage—litigation from the Legislature, or even from trial-court judges frequently named in frivolous lawsuits. *See* Br. 6 (asserting the power to take over litigation from "*anyone*") (emphasis added).

The Attorney General's primary response to all this is to assure the Court that "wisdom and respect" will lead him to "consult with and take into consideration the views of the officeholders he represents in their official capacities." Br. 13. That is cold comfort. The whole point of a constitutional division of powers is to impose safeguards rather than leave the

Governor and the State at the mercy of the Attorney General's "wisdom and respect." *Cf. United States* v. *Stevens*, 559 U.S. 460, 480 (2010) (rejecting constitutional argument that would "leave us at the mercy of *noblesse oblige*").

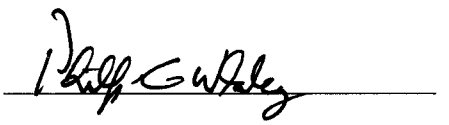
The Attorney General likewise fails to persuasively address the ethical concerns raised by his proposed representation. *See* Br. 13. Governor Stitt, like all clients, is entitled to representation by a lawyer who will advocate for his legal views, not one who openly intends to flip positions over his objection. *See* Stitt Br. 17. The Attorney General dismisses that concern on the basis that the Governor was named as a defendant in his official capacity. There can be no doubt, however, that the underlying lawsuit focuses specifically on the Governor and his actions in certifying the relevant compacts. And in any event, as the Governor has explained, even state officers are entitled not to be represented by the Attorney General when a conflict exists. *See id.* at 17-18. Indeed, in *State ex rel. Howard v. Oklahoma Corporate Commission*, 1980 OK 96, ¶¶ 20-26, 614 P.2d 45, 49-51, this Court acknowledged the Attorney General's authority in litigation but nevertheless recognized that public officials and entities have a constitutional right to be defended by the counsel of their choice and not the Attorney General when a conflict exists. The Attorney General relies (at 13) on *State ex rel. Nesbitt v. District Court of Mayes County*, 1967 OK 228, ¶ 17, 440 P.2d 700, 707, *overruled on other grounds by Palmer v. Belford*, 1974 OK 73, 527 P.2d 589, arguing that this Court held that a nominal party appearing in her official capacity can never defeat the Attorney General's decision on how to litigate the case for the State. But *Nesbitt* simply held that, in a circumstance where a court clerk did not want to pursue an appeal of a particular case, the Attorney General—who appeared "at the request of the Governor"—was entitled to the last

word on that issue. *Id.* at 707. Unlike *Howard*, *Nesbitt* did not address ethical obligations or a state official's ability to retain the counsel of his choice.

CONCLUSION

For the foregoing reasons, the Court should answer the certified question in the negative and reject the Attorney General's attempt to take over the representation of the Governor in the federal district-court proceedings.

Respectfully submitted,



Jeffrey B. Wall, [D.C. Bar # 500301]*
Judson O. Littleton, [D.C. Bar # 1027310]*
Zoe A. Jacoby, [D.C. Bar #1673642]*
SULLIVAN & CROMWELL LLP
1700 New York Avenue, NW, Suite 700
Washington, DC 20006
Phone: (202) 956-7500
Fax: (202) 956-7676
wallj@sullcrom.com
littletonj@sullcrom.com
jacobyz@sullcrom.com

and

Phillip G. Whaley, OBA No. 13371
Matthew C. Kane, OBA No. 19502
Patrick R. Pearce, Jr., OBA No. 18802
RYAN WHALEY
400 North Walnut Avenue
Oklahoma City, OK 73104
Phone: (405) 239-6040
Fax: (405) 239-6766
pwhaley@ryanwhaley.com
mkane@ryanwhaley.com
rpearce@ryanwhaley.com

Counsel for Defendant Governor J. Kevin Stitt

**pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

This certifies that on this 23rd day of July, 2024, a true and correct copy of the foregoing instrument was mailed via first class U.S. mail, postage prepaid, to the following:

Gentner F. Drummond
Garry M. Gaskins, II
OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA
313 N.E. 21st Street
Oklahoma City, OK 73105
Counsel for the Attorney General

Colin Cloud Hampson
Frank Sharp Holleman, IV
SONOSKY, CHAMBERS, SACHSE, ENDRESON & PERRY, LLP
145 Willow Street, Suite 200
Bonita, CA 91902
Counsel for Plaintiffs

Meredith Presley Turpin
THE CHICKASAW NATION
Office of Executive Counsel
2021 Arlington Street
Ada, OK 74820

and

Stephen Greetham
GREETHAM LAW, P.L.L.C.
Office of Senior Counsel
512 N. Broadway, Suite 205
Oklahoma City, OK 73102
Counsel for Plaintiff Chickasaw Nation

Brian Danker
CHOCTAW NATION OF OKLAHOMA
1802 Chukka Hina
Durant, OK 74701
Counsel for Plaintiff Choctaw Nation

Chad C. Harsha
CHEROKEE NATION-ATTORNEY GENERAL OFFICE
P.O. Box 1533
Tahlequah, OK 74465
Counsel for Plaintiff Cherokee Nation

Kristofor R. Swanson
Matthew M. Marinelli
DOJ-ENRD
Natural Resources Section
P.O. Box 7611
Washington, DC 20044
Counsel for Defendant U.S. Dep't of Interior

/s/ Phillip G. Whaley
Phillip G. Whaley