



GENTNER DRUMMOND  
ATTORNEY GENERAL

June 16, 2023

*Via Hand Delivery and Email*

The Honorable Charles McCall  
Speaker of the Oklahoma House of Representatives  
2300 N. Lincoln Blvd., RM 401  
Oklahoma City, OK 73105  
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The Honorable Greg Treat  
President Pro Tempore of the Oklahoma Senate  
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Oklahoma City, OK 73105  
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Dear Speaker McCall and President Pro Tempore Treat,

Given your first-hand involvement in Treat I and Treat II (defined below), you are painfully aware that the State of Oklahoma has been embroiled in a legal controversy for over three years following Governor J. Kevin Stitt's unilateral action of negotiating illegal tribal gaming compacts with four tribal communities in Oklahoma. As determined by our Supreme Court, Governor Stitt's actions are in violation of Oklahoma law, and his attempts to seek federal bureaucratic authorization of those compacts resulted in a federal lawsuit, *The Cherokee National et al., v. United State Department of the Interior et al.*, U.S District Court for the District of Columbia Case No. 20-2167 (the "Cherokee Nation Lawsuit"), which Governor Stitt is currently defending in his official capacity (using the services of several Washington, D.C. and New York City law firms). **The purpose of this letter is to humbly invite the Legislature's entreaty that this Office assume the defense of Oklahoma's interests in the Cherokee Nation Lawsuit and bring it to an expeditious end.**

As background, in early 2020, Governor Stitt entered into gaming compacts with the Otoe-Missouria Tribe, the Comanche Nation, the United Keetoowah Band, and the Kialegee Tribal Town. The Oklahoma Legislature did not approve of or authorize Governor Stitt to bind Oklahoma to these compacts. In entering these agreements, Governor Stitt acted outside his powers under the Oklahoma Constitution and in contravention of Oklahoma law. Nevertheless, despite knowing that he lacked authority to enter the gaming compacts, Governor Stitt sought to have the Department of the Interior approve them.

There is no legal doubt that Governor Stitt's actions violated the separation of powers. An Attorney General Opinion issued by then Attorney General, Mike Hunter, concluded that Governor Stitt lacked authority to enter into the gaming compacts with the Otoe-Missouria Tribe and the Comanche Nation. *See* No. Attorney General 2020-8, 2020 WL 2304499 (Okla. A.G. May 5, 2020). If that were not enough, the Oklahoma Supreme Court issued an opinion confirming the invalidity of Governor Stitt's agreements with the Otoe-Missouria Tribe and the Comanche Nation. *See Treat v. Stitt*, 2020 OK 64, 473 P.3d 43 (Okla. 2020)("Treat I"). Subsequently, the Oklahoma Supreme Court similarly held that Governor Stitt's compacts with the United Keetoowah Band and the Kialegee Tribal Town were invalid. *See Treat v. Stitt*, 2021 OK 3, 481 P.3d 240 (Okla. 2021)("Treat II").

Nevertheless, even with clear guidance issued by this Office and Oklahoma's highest court, Governor Stitt has continued to attempt to undermine Oklahoma law by suggesting the supremacy of a federal bureaucracy, effectively attempting to eviscerate our Tenth Amendment rights. Therefore, I believe it is in the best interest of the State of Oklahoma for this Office to take over the defense of the Cherokee Nation Lawsuit.

Under the current version of 74 O.S. § 18b, I have the discretion "to take and assume control of the prosecution or defense of the state's interest" in any litigation involving the State. However, I believe this Office will be in the strongest possible position to defend Oklahoma law if it is formally requested to assume the defense of the Cherokee Nation Lawsuit by the Legislature. *See* 74 O.S. § 18b(A)(3) (stating that the Attorney General shall appear in an action "at the request of...the Legislature"). Accordingly, I humbly invite the Legislature to formally request this Office to assume Oklahoma's defense in the Cherokee Nation Lawsuit and end the continued waste of State resources on this matter.

Respectfully,



GENTNER DRUMMOND

*Oklahoma Attorney General*