

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

POARCH BAND OF CREEK	)	
INDIANS	)	
	)	
Plaintiff/Counterclaim	)	
Defendants,	)	
	)	
vs.	)	CIVIL ACTION NO. 15-0277-CG-C
	)	
THAD MOORE, JR., in his official	)	
capacity as Tax Assessor of	)	
Escambia County, Alabama,	)	
	)	
Defendant/Counterclaim	)	
Plaintiff,	)	
	)	
UNITED STATES OF AMERICA, <u>et</u>	)	
<u>al.</u> ,	)	
	)	
Counterclaim Defendants.	)	

**ORDER**

After due and proper consideration of all issues raised, and a de novo determination of those portions of the recommendation to which objection is made, the recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated August 10, 2016 is **ADOPTED** as the opinion of this Court **with the following exceptions.**

The Court does not adopt the recommendation to deny the Plaintiff’s Motion to strike Defendant Moore’s affirmative defenses numbered 4 and 5, but rather grants the motion to strike defenses 4 and 5 for the reasons set forth in Plaintiff’s Objections (Doc. 79). The report and recommendation is adopted in all other respects.

Accordingly, it is hereby **ORDERED, ADJUDGED, and DECREED** that the Motion to Dismiss Counterclaim (Doc. 59) is granted (a) as to the United States Department of the Interior; Sally Jewell, Secretary of the DOI; Kevin Washburn, Assistant Secretary-Indian Affairs; and the Bureau of Indian Affairs because, as conceded by the Counterclaim Plaintiff, they are not necessary Counterclaim Defendants in this action; and (b) as to the United States of America pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. It is further **ORDERED, ADJUDGED, and DECREED** that the Motion to Dismiss Amended Counterclaims and to Strike Certain Affirmative Defenses (Doc. 60) filed by the Poarch Band of Creek Indians and tribal council members, Stephanie Bryan, Robert McGhee, David Gehman, Arthur Mothershed, Keith Martin, Sandy Hollinger, Garvis Sells, and Kevin McGhee, is (a) granted in part to the extent that the Counterclaim Plaintiff's counterclaims against them are dismissed pursuant to Rule 12(b)(1) and that the Counterclaim Plaintiff's affirmative defenses 2, 3, 4, 5, 6, 7, and 8 are stricken; and (b) denied in part to the extent that the Counterclaim Plaintiff's affirmative defenses 9, 10, 11, 12 are not stricken.

**DONE and ORDERED** this 12th day of September, 2016.

/s/ Callie V. S. Granade  
SENIOR UNITED STATES DISTRICT JUDGE