

Brown v. Choctaw Resort Development Enterprise, 2023 WL 6881815 (S.D. Miss., Oct. 18, 2023).

- **Holding:** In challenge to plaintiffs' ejection from tribal casino due to mask ban during Covid-19 pandemic, the court rejected plaintiffs' assertion that further proceedings in tribal court were futile due to tribal attorney general's administrative denial of claim as time-barred—Plaintiffs were required to challenge the statute-of-limitations finding by suing in tribal court and then appealing if necessary.
- **Summary:** Plaintiffs, appearing pro se, filed a suit in federal court challenging a mask mandate the Mississippi Band of Choctaw Indians (MBCI) imposed on visitors to the Golden Moon Hotel and Casino, which resulted in the Plaintiffs being denied entry. The original suit asserted claims for (1) violation of Plaintiffs' due-process and equal-protection rights under 42 U.S.C. § 1983, (2) conspiracy under 42 U.S.C. § 1985, (3) common-law conspiracy, (4) violation of 42 U.S.C. § 2000a, and (5) negligent infliction of emotional distress. The court dismissed the original suit for failure to exhaust tribal court remedies.

Plaintiffs then filed a Choctaw Tort Claims Act *notice* with the MBCI Attorney General. The Attorney General denied the claim, concluding it was time-barred, rejecting Plaintiffs' assertion that the tribal statute of limitations was tolled while Plaintiffs pursued their original action in federal court. Plaintiffs then filed a new complaint in federal court, under the belief that further proceedings in tribal court would be futile, given the Attorney General's denial of their claim as time-barred.

The court concluded that "the United States Supreme Court requires full exhaustion in tribal court even when federal questions create concurrent jurisdiction." Thus, the Plaintiffs were required to "challenge[] the statute-of-limitations finding by suing in tribal court and then appealing if necessary."

Rather than dismiss the complaint, the court stayed the case pending the exhaustion of tribal court remedies to avoid the possibility of Plaintiffs being barred permanently from asserting their claims in a federal forum by the running of the applicable statute of limitations.

- **Relevant (2023) Deskbook Section:** 6:4