

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

DEWEY HEALING, Chairman of the Hopi Council of the Hopi Indian Tribe, etc.,	)	
	)	
<u>Plaintiff,</u>	)	
	)	
v.	)	No. Civil
	)	
PAUL JONES, Chairman of the Navajo Tribal Council of the Navajo Indian Tribe, etc.;	)	579
ROBERT F. KENNEDY, Attorney General of the United States, etc.,	)	Prescott
	)	
<u>Defendants.</u>	)	

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

I. Notice is hereby given that PAUL JONES, Chairman of the Navajo Tribal Council of the Navajo Indian Tribe, etc., one of the defendants above named, hereby appeals to the Supreme Court of the United States from the judgment entered in this action on September 28, 1962.

This appeal is taken pursuant to Section 1 of the Act of July 22, 1958, Public Law 85-547, 72 Stat. 403.

II. The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

The entire record, including, but not limited to, the docket entries; pleadings; pretrial orders; motions on behalf of any party; opinions; transcript of testimony; all exhibits whether admitted in evidence or merely marked for identification, and whether included in bound books or separately offered; stipulations; all requests for findings of fact and all objections to

requests for findings of fact; court's findings of fact and conclusions of law; court's opinion of September 28, 1962, and appendix thereto; final judgment entered on September 28, 1962.

III. The following questions are presented by this appeal:

1. By Executive Order dated December 16, 1882, certain public lands were set apart for the use and occupancy of the Hopi Indian Tribe "and such other Indians as the Secretary of the Interior may see fit to settle thereon." After finding and holding that members of the Navajo Indian Tribe had been settled by the Secretary of the Interior on certain portions of the reservation in question, the court below decided that the Navajo Indian Tribe held such lands only as "joint, undivided, and equal" tenants together with the Hopi Indian Tribe.

The first question presented is whether, in view of the terms of the Executive Order (and all of the other circumstances involved), the court erred in holding that the Navajos, who admittedly were the only Indians falling within the description of "such other Indians as the Secretary of the Interior may see fit to settle thereon," were entitled only to "joint, undivided and equal" tenancy together with the Hopis, or whether, as contended by the Navajos, they were entitled to an exclusive interest in those areas of the reservation on which they had been settled by the Secretary of the Interior.

2. The court below found and held that the Navajos were settled by the Secretary of the Interior in 1931 on all portions of the reservation not occupied by Hopis. In 1936 and again in 1943, the Secretary of the Interior extended the line of authorized Hopi occupancy at the expense of the Navajos, and the court below held that the Hopis were entitled to an exclusive

interest in the lands authorized to be occupied by them as those lands had been demarcated by the 1943 boundary.

The second question presented is whether, after the Secretary of the Interior had settled the Navajos on certain lands in 1931, he had authority thereafter, in 1936 and 1943, to un-settle them pro tanto.

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Of Counsel.

**PROOF OF SERVICE**

I, **NORMAN M. LITTELL**, one of the attorneys for **PAUL JONES**, Chairman of the Navajo Tribal Council, etc., appellant herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the *21<sup>st</sup>* day of November, 1962, I served copies of the foregoing Notice of Appeal to the Supreme Court of the United States on the several parties thereto, as follows:

1. On **DEWEY HEALING**, Chairman of the Hopi Tribal Council, etc., by mailing a copy in a duly addressed envelope, with air mail postage prepaid, to his counsel of record, **John S. Boyden, Esq.**, 604 El Paso Natural Gas Building, 315 East 2nd South Street, Salt Lake City, Utah.

2. On **ROBERT F. KENNEDY**, Attorney General of the United States, etc., by mailing one copy, in a duly addressed envelope, with air mail postage prepaid, to **Charles A. Muecke, Esq.**, United States Attorney, Phoenix, Arizona;

by mailing a second copy, in a duly addressed envelope, with air mail postage prepaid, to **Mary Anne Reimann**, Assistant United States Attorney, 412 Post Office and Federal Building, Tucson, Arizona;

and by mailing a third copy, in a duly addressed envelope, with first class postage prepaid, to **The Solicitor General**, Department of Justice, Washington 25, D. C.

*N. M. Littell*  
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