

BEFORE THE INDIAN CLAIMS COMMISSION

THE SHOShONE TRIBE OF INDIANS
OF THE WIND RIVER RESERVATION,
WYOMING,)

Petitioner,)

v.)

THE UNITED STATES OF AMERICA,)

Defendant.)

Docket No. 63

Appearances:

George H. Tunison,
Attorney for Petitioner.

Donald B. Marshall, with whom was
Mr. Assistant Attorney General
A. Devitt Vanech,
Attorneys for Defendant.

JUN 2 1951

OPINION

PER CURIAM. Based upon our rule SEC. 9 (b), the defendant has moved for an order to require petitioner to separately state their claims. The above rule reads as follows:

"Each claim founded upon a separate transaction or occurrence * * * shall be stated in a separate count * * * whenever a separation facilitates the clear presentation of the matters set forth."

The petition herein contains seventeen consecutively numbered paragraphs and in these paragraphs are alleged three separate and distinct claims:

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(1) For the value of 700,642 acres of land ceded by the agreement of September 26, 1872 (approved December 15, 1874) based upon an unconscionable consideration;

(2) For gold removed from the lands ceded by the 1872 agreement prior to the cession thereof to defendant; and,

(3) For the amount of offsets erroneously adjudged against petitioner by the Court of Claims in *Shoshone Tribe v. United States*, No. H-219, 82 C. Cls. 23.

The above clearly shows that there are three separate and unrelated transactions or occurrences, each of which is complete in itself and could be pleaded without joining the other two. The purpose of the rule is to facilitate a clear presentation of the matters involved, and a clear presentation requires the pleading to be in such shape that the defendant's pleading may squarely meet the allegations separately as to each cause of action pleaded.

It is our conclusion that the pleading in question does not comply with the rule set forth above and that the motion of the defendant must be sustained.

In the preparation of an amended petition it shall not be necessary to attach copies of the documents appended to the petition if they are referred to by appropriate citations in the amended petition.

January 2, 1951