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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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UNITED STATES *v.* TOHONO O'ODHAM NATION

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 09–846. Argued November 1, 2010—Decided April 26, 2011

Respondent Tohono O'odham Nation (Nation) filed suit in Federal District Court against federal officials who managed tribal assets held in trust by the Federal Government, alleging violations of fiduciary duty and requesting equitable relief. The next day, the Nation filed this action against the United States in the Court of Federal Claims (CFC), alleging almost identical violations and requesting money damages. The CFC case was dismissed under 28 U. S. C. §1500, which bars CFC jurisdiction over a claim if the plaintiff has another suit "for or in respect to" that claim pending against the United States or its agents in another court. The Federal Circuit reversed, finding that the two suits were not for or in respect to the same claim because, although they shared operative facts, they did not seek overlapping relief.

Held:

1. Two suits are for or in respect to the same claim, precluding CFC jurisdiction, if they are based on substantially the same operative facts, regardless of the relief sought in each suit. Pp. 2–9.

(a) Since 1868, Congress has restricted the jurisdiction of the CFC and its predecessors when related actions are pending elsewhere. *Keene Corp.* v. *United States*, 508 U. S. 200, 212, held that two suits are for or in respect to the same claim when they are "based on substantially the same operative facts . . . , at least if there [is] some overlap in the relief requested," but it reserved the question whether the jurisdictional bar operates if suits based on the same operative facts do not seek overlapping relief. The rule now codified in §1500 was first enacted to curb duplicate lawsuits by residents of the Confederacy who, in seeking to recover for cotton taken by the Federal Government, sued the Government in the Court of Claims and,

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at the same time, sued federal officials in other courts, seeking tort relief for the same actions. Section 1500's robust response to this problem bars CFC jurisdiction not only if the plaintiff sues on an identical claim elsewhere, but also if the other action is related but not identical. The phrase "in respect to" does not resolve all doubt as to the bar's scope, but it suggests a broad prohibition, regardless of whether "claim" carries a special or limited meaning. Pp. 2–4.

(b) *Keene* permits two constructions of "for or in respect to" the same claim, one based on facts alone and the other on factual plus remedial overlap. The former is the more reasonable interpretation in light of the statute's use of a similar phrase in a way consistent only with factual overlap. The CFC bar applies where the other action is against a "person who, . . . when the cause of action . . . arose, was, in respect thereto, acting" under color of federal law. But at the time that a cause of action arose, the person could not act in respect to the relief requested, for no complaint was yet filed. Although the phrase at issue involves a "claim" rather than a cause of action, there is reason to think that both phrases refer to facts alone and not to relief. As *Keene* explained, "'claim' is used here synonymously with 'cause of action,'" 508 U. S., at 210. And if the phrase that uses "cause of action," the more technical term, does not embrace the concept of remedy, it is reasonable to conclude that neither phrase does. Pp. 4–5.

(c) This reading also makes sense in light of the CFC's unique remedial powers. Because the CFC is the only judicial forum for most nontort requests for significant monetary relief against the United States and because it has no general power to provide equitable relief against the Government or its officers, a statute aimed at precluding duplicate CFC suits would be unlikely to require remedial overlap. Remedial overlap was even more unusual when §1500's rule was first enacted in 1868. The Federal Circuit could identify no purpose the statute served in light of that court's precedent. But courts should not render statutes nugatory through construction. The statute's purpose is clear from its origins—the need to save the Government from redundant litigation—and the conclusion that two suits are for or in respect to the same claim when they share substantially the same operative facts allows the statute to achieve that aim. Concentrating on operative facts is also consistent with the doctrine of claim preclusion, or res judicata. The Nation errs in arguing that this Court's interpretation unjustly forces plaintiffs to choose between partial remedies available in different courts. The Nation could have recovered any losses in the CFC alone. Even if some hardship were shown, this Court "enjoy[s] no 'liberty to add an exception . . . to remove apparent hardship.'" *Keene*, *supra,* at 217–218.

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Pp. 5–9.

2. The substantial overlap in operative facts between the Nation's District Court and CFC suits precludes jurisdiction in the CFC. Both actions allege that the United States holds the same assets in trust for the Nation's benefit, and they describe almost identical breaches of fiduciary duty. Pp. 9–10.

559 F. 3d 1284, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, THOMAS, and ALITO, JJ., joined. SOTOMAYOR, J., filed an opinion concurring in the judgment, in which BREYER, J., joined. GINSBURG, J., filed a dissenting opinion. KAGAN, J., took no part in the consideration or decision of the case.