

LOWER BRULE SIOUX TRIBAL COURT

Facsimile



Lower Brule Sioux Tribal Court
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Date: 5-11-15

To: Paul O. Godthand

From: M Langdeau

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Message: The Defendant's Petition for A extraordinary Writ of Mandamus Filed to this Tribe's Appellate Court - Order Granting leave to File Amended Application + Order for Hearing + Preliminary Orders + Continued Temporary Restraining Order

You should have received 31 page(s), including this cover sheet. If you do not receive all the pages please contact me at (605) 473-5528.

Thank You.

LOWER BRULE SIOUX TRIBAL COURT) IN TRIBAL APPELLATE COURT
LOWER BRULE SIOUX RESERVATION) CIVIL DIVISION
LOWER BRULE SIOUX JURISDICTION) CIV-#14-12-0119

Lower Brule Sioux Tribe, Originally Plaintiff; in this amended lawsuit now called Intervenors consisting of Tribal Secretary/Treasurer Orville (Red) Langdeau and Tribal Council member John McCauley	* THE DEFENDANTS' PETITION * FOR A EXTRAORDINARY * WRIT OF MANDAMUS * FILED TO THIS TRIBE'S * APPELLATE COURT
vs.	*
Lower Brule Sioux Tribal Council	*
Vice-Chairman Kevin Wright, now acting Chairman	*
Tribal Council member Sonny Ziegler	*
and Tribal Council member Desiree LaRoche	*
Defendants	

COMES NOW , on date of May 11 2015 and proceeding Pro-Se are the three named defendants, in this amended lawsuit and all of its related actions ; the Lower Brule Sioux Tribal Council Vice-Chairman Kevin Wright now acting Chairman (due to the elected Chairman recently passing away), Lower Brule Sioux Tribal Council member Sonny Ziegler and Lower Brule Sioux Tribal Council member Desiree LaRoche who do file to the Lower Brule Sioux Appellate Court; A petition for a extraordinary writ of mandamus to the Tribe's Superior court; requesting the Superior court to order the Lower Brule Sioux Tribal (trial) Court (*the inferior court*) specifically special Judge B.J. Jones to do specific things and also for the two plaintiffs now also called intervenors John McCauley and Orville (Red) Langdeau to do specific things that are numbered and listed (*defendants' requests to Superior Court*) after the defendants state to the Appellate (*Superior*) Court why the reasons for their petition for the writ. The three named defendants are all duly elected members of the Lower Brule Tribal Council and are vested representatives of the TRIBE and now argue to the Superior Court that Lower Brule regular (*Inferior Ct.*) tribal court lacks both types of jurisdiction over them in this Lawsuit; both Subject Matter Jurisdiction and Persona Jurisdiction. see *Hagan v. Sisseton-Whapeton Community College 205 F.3d 1040 (8th Cir.2000)* also see *Santa Clara Pueblo v. Martinez 436 U.S. 49, 58 (1978)*. : Also see the Lower Brule Tribal Law and Order Code Rules of Civil Procedure Chapter 11 Section 2. Tribe immune from suit.

The Lower Brule Tribal (trial)court has granting leave to the plaintiffs almost three months after a judgment made on Feb 13th 2015 to amend a second time their original lawsuit to include a illegal remedy of personal damages against the defendants in their official capacity as elected tribal council members. The motion of personal damages was brought by plaintiffs under the court's Feb 13th 2015 findings of a ex-Parte Young violation against the defendants. The special judge found in his Feb 13th 2015 judgment that the defendants' claim of sovereignty immunity as tribal council members did not exists for the issue of the defendants in a special meeting December 12th 2014 trying to fill the plaintiffs positions; after the plaintiff voluntarily walked out of the December 2014 regular tribal council meeting; when the vice- chairman attempted to bring to the floor the issues of the disputed tribal chief judge election, missing federal funds in the millions, fraudulent investments and secret council business activities involving the tribal farm and ect. The plaintiffs then filed in tribal court their lawsuit against the three defendants all elected tribal council members by using the tribally paid for tribal attorney Tara Adamski.

The defendants proceeding pro-se answered the original complaint as the lawsuit said there was a compliant but in reality the defendants where not provided with a complaint on the regular form the Lower Brule Civil court uses. The plaintiff stated it was the Tribe and listed the then chairman Michael Jandreau and, Secretary Treasury Orville (Red) Langdeau and council member McCoa^{KEW}by and was filed by the tribal attorney Tara Adamski. The defendants claim there was a conflict of interest by tribal attorney Tara Adamski based upon the fact the three defendants were viewed as TRIBE to and the tribal attorney was suppose to be working for them also! The special judge allowed the tribal attorney Tara Adamski to withdraw and she was replaced by another paid tribal attorney Marshal Matz to provide legal presentation for the plaintiffs. There was still a conflict as this second tribal attorney paid by tribal funds was suppose to be proving representation in other matters for the three defendants also. The defendants then hired an attorney at their own expense and the plaintiffs amended their lawsuit the

first with a compliant file by the two plaintiffs McCauley and Langdeau. The record shows that beside filing denials while proceeding pro-se the defendants had filed what would be considered a demurrer.. A demurrer is a pleading that the judge dismiss the case(lawsuit) – stipulating and/or arguing that "even if the allegations alleged in the complaint are true (*for legal argument sake*) " there is no legal basis for the suit. When a demurrer has been filed, a hearing must be held before a judge, who will rule on the validity of the demurrer. If the demurrer alleges that the complaint is vague, the judge may accept (sustain) the demurrer, with "leave to amend". If the amendment does not cure the problems with the original complaint, the judge may (*and often will*) sustain the demurrer and dismiss the case. The record shows that the special judge had in front of him the defendants' demur and/or motion to dismiss for lack of standing by the plaintiff's to bring this lawsuit in this tribal court. The Judge in his order number two of his Feb 13th 2015 judgment gave both parties until Feb 27th 2015 to provided him with documentation on how this lawsuit can be brought in tribal court. This burden of proof was squarely on the plaintiffs as they were bringing the lawsuit not the defendants. The plaintiffs never complied with this order; so by the deluges own ruling this case/lawsuit must be dismissed. Yet the special judge allows the plaintiffs to amend their compliant and/or lawsuit a second time and to continue bringing a claim for personal damages against the defendants by a ex-parte Young (supposedly) findings in this case. The defendants now file for the writ of mandamus for the above stated recons and reasons stated and numbered in their request for the superior court to order the lower or inferior court to do specific things.

BACK GROUND HISTORY OF THE PRESENT TRIBA L COURT"S STATUS

This civil court of the Lower Brule Sioux Tribe is entertaining this amended lawsuit through its special judge appointed by the present chief judge. The chief judge holds this position under controversy of a disputed election of year 2014 in which this judge received the least amount of votes among three candidates (*all three qualified by the election board*) losing out in the primary election. The remaining

two tribal judge candidates ran off in the General election and the winning candidate withdrew before getting sworn in. This sitting chief judge was then seated by the former tribal council 2012-2014 for the next full term for the judge thereby overriding the process of going through the election board. The runner up candidate for the judge position filed to the election board and tribal council a protest and/or challenge of the method used to sit the current sitting judge who finished third in the election. But he did not received any answers to his questions how the number three finishing candidate could be appointed ahead of the number two finishing candidate? The runner up candidate never received a official written response to his challenge or protest. The current sitting chief judge is not approved by the present tribal council 2014-2016 that included the three defendants in this lawsuit. The defendants had made attempts to bring the disputed chief judge election for up at regular council meeting but the council would go into recess. The defendants also tried to bring on the floor the issues of missing federal funds and other secret tribal investments and they requested transparency in tribal business and finances. The remaining two plaintiffs out of the original three plaintiffs each walked out one after the other from the regular December 2014 tribal council meeting as the vice chairman was attempting to bring the above mention issues to the floor. The vice chairman advised the two council members that by leaving the meeting they were abandoning their positions as council members. The then Chairman recess the council meeting. The defendants held a special meeting on December 12th 2014 and attempted to fill the the vacancies that the defendants had reasonably thought the three other council members had vacated. The plaintiffs by their actions at the regular December 2014 meeting stalled the remaining council members from finding out what happened to the missing federal funds, and other issues they wanted answered to. The three plaintiffs then filed the original lawsuit in tribal court and requested the court to remove the defendants from their duly elected positions on the tribal council. The three plaintiffs also requested a Temporary Restraining Order(TRO) from the tribal court against the three defoliant which the court granted. The special Judge was appointed. The TRO by the tibial law was only good for 14 days but it ran well passed that statute of limitations.

WRIT OF MANDAMUS

This tribal (trial) court has now accepted the plaintiffs now intervenors (*the two plaintiff intervenors are also members of 2012-2014 tribal council who seated the chief judge before the proper appointed election board made its ~~finding~~ ^{finding} after the leading candidate with drew before being sworn into office*) second amended lawsuit for further litigation! A conflict of interest is clearly present here in this lawsuit; therefore the defendants seek the avenue of the a petition for a extraordinary Writ of Mandamus from the Superior Court of the Lower Brule Appellate Court.

[Writ of Mandamus is a writ or order that is issued from a court of superior jurisdiction that commands an inferior tribunal, corporation, individual, or inferior court, within the jurisdiction of such superior court, requiring them to do some particular thing therein specified, which appertains to their office and duty, and which the superior court at least supposes to be consonant to right and justice or refrain from performing a particular act, the performance or omission of which is required by law as an obligation. A writ or order of mandamus is an extraordinary court order because it is made without the benefit of full judicial process, or before a case has concluded. It may be issued by a court at any time that it is appropriate, but it is usually issued in a case that has already begun. Generally, the decisions of a lower-court made in the course of a continuing case will not be reviewed by higher courts until there is a final judgment in the case. On the federal level, for example, 28 U.S.C.A. § 129 provides that appellate review of lower-court decisions should be postponed until after a final judgment has been made in the lower court. A writ of mandamus offers one exception to this rule. If a party to a case is dissatisfied with some decision of the trial court, the party may appeal the decision to a higher court with a petition for a writ of mandamus before the trial proceeds. The order will be issued only in exceptional circumstances. If the parties fail to comply with a mandamus order, they may be held in ~~contempt~~ ^{of court} of contempt of court and fined or jailed. A mandamus order is made to compel a judicial or government officer to perform a duty owed to the petitioner **This writ was introduced to prevent disorders from a failure of justice; therefore it ought to be used upon all occasions where the law has established no specific remedy, and where in justice and good government there ought to be one.]**

3 Burr. R.1267; 1T.R 148, 9.;2 Pick. 414;4 Pick. 68;10Pick.235,44;7Mass;340;3Binn.273;5 Halst.57;Cooke,160;1Wend.318;5 Pet.190;1 Caines, R.511;John. Cas.181;12Wend.183;8Pet.291;12 Pet.524;2 Penning. 1024;Hardin,172; 7Wheat.534;5 Watts.152;2 H.&M.132;3H.&M.1;1S.&R.473;5Binn.87;3Conn.243;2Virg.Cas.499;5Call.548.

The three defendants duly elected members of the tribal council have never waived their sovereign immunity as duly elected representatives of ^{for} the Tribe. The defendants request that the appellate tribal court honor the Lower Brule Sioux Tribe's inherent power of sovereign immunity s it applies to them in their duly elected capacities or offices.

BACKGROUND FACTS LEADING TO THE THREE PLAINTIFFS CALLED TRIBE (then consisting of elected chairman, now deceased and the two remaining plaintiffs) bringing their ORIGINAL LAWSUIT :

The chairman position was recently vacated by natural process of the passing of the duly elected tribal chairman (*this fact is stated respectfully*). This amended lawsuit's underlying cause of action is a tribal council dispute over the two plaintiff's now called interevnors losing control to majority (*the three defendants*) due to the passing of the elected Chairman; and the Vice -Chairman rightfully assuming the chairman's authority and position due to this emergency. This is and was the standard practice of this tribe as it relates to the vice-chairman (*vice-president*) assuming the powers of a incapacitated or passed away chairman (*President*) and tribes throughout the United Stats and as even the practice of the states and federal government.

The defendants argue to the Superior court that this action is does not fall under the doctrine of Ex- parte Young, it is with in the regular duty of the vice-chairman position. The Lower Brule Sioux Tribal Constitution does not allow for the tribal court to dictate tribal council affairs and business. See Santa Clara Pueblo v. Martinez 436, US 49, 58, (1978) The two tribal attorneys Tara Adamski and Marshall Matz that were terminated were "at will employees" and both refused to provide their contracts for review to the vice chairman now acting chairman. The attorneys know how to file action on their own behalf and the plaintiffs cannot file for them. See *Lujan v. Defender of Wildlife*, 504 U.S (1992) The tribal employees Lee Brannam and Patrica Lundell mentioned in this second amended lawsuit have not suffered any injury and are not listed as plaintiffs in this lawsuit therefore have no standing. See *Froithnghan v. Mellon* 202 U.S. 447(1923).

As to the plaintiffs mention of derogation of the Lower Brule Sioux Constitution and also threats of

harming federal funding by the defendants ; the defendants state these allegations are baseless and bogus; just tactics made by the plaintiffs to hide and divert the real reason that of mis-management of federal funds by the plaintiffs and their allies to the tune of over 24 million dollars.

DEFENDANTS' WRIT OF MANDAMUS REQUESTS

Vice-Chairman Kevin Wright now acting Chairman (due to the elected Chairman recently passing away), Lower Brule Sioux Tribal Council member Sonny Ziegler and Lower Brule Sioux Tribal Council member Desiree LaRoche who do file to the Lower Brule Sioux **Appellate Court; A petition for a extraordinary writ of mandamus to the Tribe's Superior court; to order the Lower Brule Sioux Tribal Court (*the inferior court*) specifically special Judge B.J. Jones to do specific things listed below;[**

[1] Order or command the tribal court (*presided over by the special judge*) to cease all litigation in this original lawsuit and its amended lawsuit including the scheduled hearing date of May 21 2015 until the appellate court hears and decides this petition for the writ. That includes but is not limited to defendants' claims of sovereign immunity, Conflict of Interest by the Trial Court based upon the issue of a disputed tribal election for the chief judge position; the chief judge appointed the special judge. The chief judge finished last out of three candidates but the tribal council term 2012-14 seated this judge without election board approval and the approval of this present tribal council term 2014-2016. Plus issue of Res Judicata applying to this amended lawsuit.

[2] Order or command the tribal court (presided over by special judge) to recognize or honor his first orders in his February 13th 2015 judgment; that found the (inferior) court Lack of Subject Matter Jurisdiction over the three defendants and recognize by the Lower Brule Sioux Tribe's sovereign immunity the three defendants' privilege of immunity from this amended lawsuit ; Civ-#14-12-0119 and all of its related actions including Injunctive Relief. See Santa Clara Pueblo v. Martinez 436, US (1978) Also Lower Brule Tribal Law and Order Code Rules of Civil

Procedure Chapter 11 Section 2. Tribe immune from suit

[3] Order or command the tribal court (presided over by special judge) to honor his second order in his February 13th 2015 judgment.; that is restated in on top of page number two of judge's grant of leave for plaintiffs' to amend their original complaint and lawsuit. That order being the Plaintiffs called Tribe in original lawsuit now called intervenors in this second amended lawsuit have failed (*in their burden begin as it was they would field the original lawsuit*) of bringing before this (inferior) court any motions, resolutions or ordinances of the Tribe on or before February 27th 2015 that govern^{the} the Tribe is authorized to bring suits. The defendants' petition by this writ of mandamus that the Superior Court (*Appellate Court*) order or command the inferior court (*trial court*) to dismiss for plaintiff's lawsuit (*for lack of standing by defendant's motion original lawsuit*) based upon their failure to follow tribal law be granted to defendants per special judge's order number three in his Feb 13th 2015 judgment. Res judicata applies here.

[4] Order or command the tribal court (presided over by special judge) to recognize that the Vice-Chairman rightfully assuming the chairman's authority and position due to this emergency; does not constitute a unlawful taking of anyone's or any elected leader's property rights in the chairman's job. In other words a violation of federal law did not occur when Kevin Wight assumed the vacant Chairman job because Kevin Wight was the duly elected vice-chairman. If a property rights is alleged in regards to the vacant Chairman position it will thus give rise to ex-parte Young attempting to be applied. "In determining whether Ex- Parte Young is applicable to overcome the tribal officials' claim of immunity, the relevant inquiry is only whether [the plaintiffs has alleged an ongoing "violation of federal law" and seeks prospective relief." See Big Horn County Elec. Coop., Inc. v. Adams, 219 F.3d 944, 954 (9th Cir.2000) ("Suits for prospective injunctive relief are permissible against tribal officers under the Ex Parte Young

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framework.”); see also BNSF Ry. Co. v. Vaughn, 509 F.3d 1085, 1091 (9th Cir.2007) (“Issues of tribal sovereign immunity are reviewed de novo.”).

The defendants point out to the Superior Court; No-where in the amended lawsuit does the plaintiffs alleged a violation of federal law has been committed only that their version of tribal government is in danger of being out voted in council meeting ^{KSD} by the defendants who now are the majority. The defendants point out to the Superior Court that there has been in the newspapers and media recently, allegations of **federal law being violated** in regards to an allegations of missing Bureau of Indian Affairs funds given to the prior lower Brule Sioux tribal council (20012-2014 term) in a very large amount of over 24 million dollars and no accounting of it has been produced at this time. But the ^{KSD} defendants state that they ^{where} were not members of that tribal council 2012-2014 but the two plaintiffs were members of the prior 2012-2014 tribal council. The three defendants point out to the superior court that they advocate for transparency of tribal funds and want visible accounting of all tribal funds. The plaintiffs have opposed the defendants' efforts in this regards. The plaintiffs in their amended lawsuit call the defendants' **efforts for transparency of tribal funds** and of tribal operations “**derogation**” of the Lower Brule Sioux Tribal Constitution.

[5] Order or command the tribal court (presided over by special judge) to dismiss with prejudice this amended lawsuit Civ-#14-12-0119 and the pronged temporary restraints within it filed against three named defendants as the court's issuance of he temporary restraints against the defendants violate tribal law and federal law of a limit of 14 days at the most for a TRO.

See [Federal Rules of Civil Procedures: Rule 65: Injunctions and Relief

(a)PRELIMINARY INJUNCTION.(1) Notice. The court may issue a preliminary injunction only on notice to the adverse party.(b) TEMPORARY RESTRAINING ORDER.

[(ii)Contents; Expiration. Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.(3) Expediting the Preliminary-Injunction Hearing. If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older

matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the court must dissolve the order.]

[6] Order or command the tribal court (presided over by special judge) to recognize that the two remaining original members of Plaintiff "Tribe" in the original lawsuit are still the same plaintiffs in this amended lawsuit with new claims including monetary damages that were never an ^{kw} issue before. That the Superior Court find that the Amended Complaint . fails to state a claim and is barred by Res Judicata " The plaintiffs move to amend or file a proposed amended is barred by res judicata by special judge's order number one if the defendant continued acting within their elected duties without trying to enforce any motions or actions from the Dec 12th 2014 special meeting. The new claim of the plaintiffs of derogation of the Lower Sioux Tribal Constituent is a different charge and calls for filing a new action by the plaintiffs in which the defendants will have all rights to exhaust their administrative remedies. Including discovery inquiring from the plaintiffs the where a of the missing federal funds of over 24 million.

For trial court to allow the plaintiffs to amend ^{kw} lawsuit a second time with ambiguous new claims at this advanced point some three months after a judgment borders on bias against defendants! Fed. R. Civ. P. Rule 9(b) requires that circumstances constituting derogation be pleaded by plaintiffs with particularity; and not far fetches ramblings about constitution being derogated.

[7] Commanding the special judge to not apply Ex-Parte Young 209 US 109(1908) to the amended lawsuit. As the plaintiff's (AKA Tribe in this lawsuit) are demanding monetary damages be affirmed against the defendants. The Ex parte Young Doctrine allows for a suit against officers of a sovereign government where the plaintiffs allege continuing unlawful conduct, and where the plaintiffs seek declaratory and injunctive relief only. See Seminole Tribe of Florida v. Florida, 516 U.S. 44, 73 (1996).

The defendants argue that Ex-parte Young doctrine does not apply to their conduct specifically the vice-chairman now acting chairman. But only stipulating for legal argument sake,

that ex-parte Young might apply ; the plaintiff's through their attorney however have over step the application of ex-parte Young by demanding monetary damages (*see paragraph [f] of amended lawsuit*) instead of seeking just injunctive relief in this amended Lawsuit; Therefore defendants argue that Ex-parte Young can not apply to this amended lawsuit.

[8] Order or command the tribal court (presided over by special judge) to recognize that the major underlying cause of action sustained in the court's Feb 13th 2015 judgment, ' the removal of the tribal chairman' is now a moot issue.

[9] In the alternative if any a or all above augment and requests the defendants have made to the Superior do fail to have this amended lawsuit dismissed; the defendants request the Superior Order or command the tribal court (presided over by special judge) to postpone the new hearing date of May 21st 2015 so that the defendants can have time to obtain legal representation.

[10] Order or command the tribal court (presided over by special judge) to postpone the new hearing date of May 21st 2015 so that the defendants have extended time before a hearing to engage in the normal practice of discovery from the plaintiffs including but not limited to : productions of document, admission by plaintiffs, interrogatories of plaintiffs and their agents and depositions of material and rerecords plus seeking of additional evidence. Civil discovery is wide-ranging and can involve any material which is "reasonably calculated to lead to admissible evidence." This is a much broader standard than relevance, because it contemplates the exploration of evidence which *might be* relevant,

WRIT OF MANDAMUS FOR PLAINTIFFS (ORIGINALLY CALLED *TRIBE IN THIS LAWSUIT*)

The three defendants Lower Brule Sioux Tribal Council Vice-Chairman Kevin Wright now acting Chairman , Lower Brule Sioux Tribal Council member Sonny Ziegler and Lower Brule Sioux Tribal council member Desiree LaRoche file to the Lower Brule Sioux **Appellate Court; A petition for a extraordinary writ of mandamus to the Lower Brule Sioux Tribe's Superior court** for the appellate court as to the elected officers of the Lower Brule Sioux Tribe, meaning the two Council members *officers/Individuals*) John McCauley and Orville (*Red*) Langdeau and command a specified thing be done by the Superior Court

[11] Ordering and/or commanding the two plaintiffs now called intervenors to cease bringing lawsuits against the three duly,elected tribal council members the named three defendants as to them in their official elected capacity in their **efforts for transparency of tribal funds** and of tribal operations.

[12] Ordering and/or commanding the two plaintiffs now called intervenors to produce documents and ^{to} information to the defendants and/or the inferior tribal court as to the missing 24 million dollars of federal funds issue to the Lower Brule Sioux Tribal Council with term of ^{2012 KLV} ~~20012~~-2014.

[13] Ordering and/or commanding the two plaintiffs now called intervenors to produce documents and ^{to} information to the defendants and/or the inferior tribal court as to any and all known to them incidents of misappropriations of any Federal or Tribal funds in regards to the Lower Brule Sioux Tribal Council with term of ^{2012 KLV} ~~20012~~-2014.

(INFERIOR) TRIBAL COURT' LACKS BOTH SUBJECT MATTER & PERONSAL JURISDICTION OVER THE NAMED DEFENDANTS IN THIS AMEDNED LAWSUIT

A court can adjudicate a dispute only if two conditions are satisfied- it must have personal jurisdiction over the parties and it must have subject matter over the type of legal issues in dispute. The three defendants argue to the Lower Brule Sioux Appellant Court (*Superior Ct.*) The Lower Brule regular (*Inferior Ct.*) tribal court lacks both types of jurisdiction over them in this Lawsuit see *Hagan v. Sisseton-Whapeton Community College 205 F.3d 1040 (8th Cir.2000)* also see *Santa Clara Pueblo*

SUBJECT MATTER JURISDICTION

Subject matter jurisdiction refers to the nature of the claim or controversy. Subject matter jurisdiction is the power of a court to hear particular types of cases. according to Rule 12(b)(1) of the Federal Rules of Civil Procedure, a federal court has the **authority to dismiss a case for lack of subject-matter** jurisdiction upon motion of a party or (*Sua Sponte*) on its own initiative.[1] A defendant who believes that a court lacks subject matter jurisdiction to hear the case may raise the issue before the trial court or in an appeal from the judgment. If a defect in subject matter jurisdiction is found, the judgment will usually be rendered void, having no legal force or binding effect. According to Rule 12(h) (3) of the Federal Rules of Civil Procedure, a federal court **must dismiss a case for lack of subject-matter jurisdiction upon motion of a party** or on its (*sua sponte*), upon its own initiative.

PERSONAL JURISDICTION

Personal jurisdiction is a court's jurisdiction over the parties to a lawsuit, as opposed to subject matter jurisdiction, (*which is jurisdiction over the law and facts involved in the suit*). If a court does not have personal jurisdiction over a party, its rulings or decrees cannot be enforced upon that party, except by comity, that is, to the extent the sovereign that does have jurisdiction over the party allows the court to enforce them upon that party. Three fundamentals of personal jurisdiction constrain the ability of courts

in the United States to bind individuals or property to its decisions: consent, power, and notice. See. *Pennoyer v. Neff*, 95 U.S. 714;

In this case the sovereignty is the Lower Brule Sioux Tribe represented in this proposed amended case by the three defendants who make up the majority of the duly elected tribal council. The Lower Brule regular (*Inferior Ct.*) tribal court lacks both types of jurisdiction over them in this amended Lawsuit Civ- 14-12-0119 based upon the fact the defendants have continued operate within their elected position authority and have never consented to waive their tribal sovereign immunity. see *Hagan v. Sisseton-Whapeton Community College* 205 F.3d 1040 (8th Cir.2000) also see *Santa Clara Pueblo*.

Signed defendant 1. 

Signed defendant 2. 

Signed defendant 3. 

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CERTIFICATE OF SERVICE

Sonny Ziegler
Desiree LaRoche
I, *Kevin Wright*

listed as defendants (Kevin, Wright, Sonny Ziegler and Desiree LaRoche) in action entitled CIV-#14-12-0119/also listed as defendants in the second amended document/motion in Lower Brule Sioux Tribal Court Civil Division filed by attorney Terry Pechota ; hereby certify on the date of May 11 2015 ; that I have caused to be served the " document called the defendants' (Kevin, Wright, Sonny Ziegler and Desiree LaRoche) petition to the Lower Brule Appellate court for an extraordinary Writ of Mandamus; with service upon the following persons listed below; I have made personal service upon Lower Brule Sioux Tribal Court Clerk at the tribal court house located in Lower Brule SD. Time 11:23^{AM} and date of May 11 2015: the Lower Brule clerk of court is mandated to make service then upon the listed plaintiffs by service upon their attorney of record, However defendants Kevin, Wright, Sonny Ziegler and Desiree LaRoche just to be safe in addition to service upon the clerk of court; will also make service by first class mail to the plaintiffs Orville (Red) Langdeau and John McCauley Sr. listed now as intervenors' by serving their Attorney listed as Terry Pechota at his place of business address on the date of May 11 2015.

Date: May 11 2015

Defendants are Proceeding Pro-Se at this point in litigation:

Kevin Wright
Signature of listed Defendant Kevin Wight
Address PO Box 57 Lower Brule SD 57548

Sonny Ziegler
Signature of listed defendant Sonny Ziegler
PO Box 295 Lower Brule SD 57548

Desiree LaRoche
Signature of listed defendant Deiree LaRoche
PO Box 448 Lower Brule SD 57548

Addresses:

[.i] Lower Brule Sioux Tribal Court Clerk *Markus Pugh* at the tribal court house located in Lower Brule SD.[method personal service]

[ii] Plaintiffs/intervenors Attorney Terry Pechota [method of service by 1st class mail plus fax at place of business 605-341-0716:] business address 1617 Sheridan Lake Road Rapid City SD 57702