

LOWER BRULE SIOUX TRIBAL COURT )  
LOWER BRULE SIOUX TRIBE ) ss: LOWER BRULE SIOUX  
TRIBAL CIVIL DIVISION ) TRIBAL COURT

---

ORVILLE LANDEAU, JR. and	)	CASE NO. CIV-14-0119 (APPEAL)
JOHN MCCAULEY,	)	
	)	
Plaintiffs/Appellees, v.	)	NOTICE OF APPEARANCE AND
	)	CONDITIONAL MOTION TO
KEVIN WRIGHT, SONNY ZIEGLER	)	SUBSTITUTE COUNSEL
AND DESIREE LAROCHE,	)	
	)	
Defendants/Appellants.	)	

---

COMES NOW THE Defendants/Appellants and notifies this Court of the appearance of the undersigned attorney Steven C. Emery as counsel for the Defendants/Appellants in this appeal.

Defendants/Appellants move the Court, by and through their undersigned counsel., Steven C. Emery, to conditionally substitute Mr. Emery in place of Gary Montana as counsel for the Defendants/Appellants. This substitution is conditional as Defendants/Appellants have received notice of Gary Montana's withdrawal as legal counsel via email:

**FW: New Legal Representation**

Desiree E. LaRoche  
9/30/15

To: steve\_emery1989@hotmail.com

**This is the email we received from Mr. Montana on September 15, 2015. Exhibit B**

Date: Tue, 15 Sep 2015 16:28:14 +0000

From: lakotagm@yahoo.com

To: cals7rabbit@yahoo.com; c\_chargerwright@yahoo.com; desiree.laroche@outlook.com

Subject: New Legal Representation

Dear Tribal Council: It is my understanding that you have retained other legal counsel. I am not in a position to argue the issue and certainly you have the right to choose whomever you desire, however, it was underhanded and clearly an unprofessional way of operating a tribal government. I am very disappointed in the manner in which you have handled this and will still consider all the billable hours owed to me - still owed and payable.

I will be withdrawing from the appeal forthwith if I do not hear from you within 24 hours and you should then request an extension of time to file your opening brief in the appeal. I will be telephoning Mr. Pechota today and letting him know what has transpired. I will also be charging you 5% interest on the balance owing.

**Gary J. Montana, Esq.**  
**Montana & Associates, LLC**  
**N. 12923 N. Prairie Rd.**  
**Osseo, WI 54758**  
**Telephone No. 715.597.6464**  
**Facsimile No. 715.597.3508**

Thereafter, Mr. Montana emailed the Court:

Re: Langdeau, Jr. v. Wright, et al. 14-0119  
Gary Montana  
9/29/15

To: BJ Jones, Michelle Hollow Horn Bear Cc: Steve\_emery1989@hotmail.com, Terry Pechota, Marlys. Langdeau

Your Honor, I am no longer the attorney of record apparently on this case. I have not however, received any release from my clients and a third party interference and bar complaints against Mr. Emery are presently being prepared for filing. I did not know Mr. Emery was an attorney on this case until yesterday when I was informed he filed a notice of appearance in the appeal now pending.

May it please the Court, my clients who are formerly Mr. Montana's clients and Defendants/Appellants in the appeal at bar sent Mr. Montana, attorney the following letter via email and U.S. Mail, certified, return receipt requested. That letter, a true and accurate copy thereof styled Exhibit \_\_ dated September 30, 2015 is attached hereto and incorporated herein by reference as if fully set forth below:

September 30, 2015

To: Mr. Gary Montana

From: Kevin W. Wright, Sonny Y. Ziegler, and Desiree LaRoche

Subject: **Termination &/or release of contract**

Mr. Montana, we regret to inform you that your contract between us has been terminated. It's our understanding, through a telephone call between you and Sonny on September 14, 2015, you verbalized to Sonny that you "quit". We also received an email from you on September 15, that you were going to contact Mr. Pechota to tell him you are withdrawing from the appeal.

Today, we are officially terminating your contract. We are aware of an outstanding balance. Also want to remind you that we hired you on behalf of us and only us, and not the Lower Brule Sioux Tribe.

Any questions or concerns, please contact Mr. Steve Emery (605) 200-0627, our legal counsel.

Sincerely,  
[signatures on file; pdf w/ signatures filed with the Court as Exhibit [B-1](#)].  
Kevin W. Wright  
Sonny Y. Ziegler  
Desiree N. LaRoche

Subsequently, attorney Montana replied to my clients:

Date: Wed, 30 Sep 2015 23:01:10 +0000  
From: lakotagm@yahoo.com  
To: desiree.laroche@outlook.com; c\_chargerwright@yahoo.com; cals7rabbit@yahoo.com  
Subject: Re: **termination letter**

It is understood that you waived your immunity for purposes of collection of outstanding invoices that are due and owing, as individual tribal council members.

Good luck.

**Gary J. Montana, Esq.**  
**Montana & Associates, LLC**  
**N. 12923 N. Prairie Rd.**  
**Osseo, WI 54758**  
**Telephone No. 715.597.6464**  
**Facsimile No. 715.597.3508**

[Exhibit B, \*supra\*, at ¶ 4,](#)

Thus, on behalf of my clients Kevin W. Wright, Sonny Y. Ziegler and Desiree N.

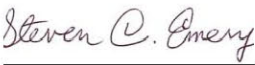
LaRoche, I ask the Court for an Order granting me:

- 1 | Copies of all documents filed in this and related matters with the LBST Clerk of Courts; and
- 2 | Granting my clients an Order Substituting me as their Counsel of Record. Mr. Montana said in his September 15, 2015 email that he would withdraw as their counsel in this matter. September 30, 2015, my clients terminated his services in this matter and to date he has actually failed to withdraw; and

- 3 | Recognizing that I am now counsel of record in this appeal and in related matters. The Court must now issue an appropriate Order so that the Clerk of Courts will converse with me telephonically about this appeal now pending before the appeals court. Time is of the essence, so I ask the Court to allow me to file and receive documents and that the Clerk timely provide me the documents requested hereinabove, effective immediately. Exhibit B, *supra* at ¶ 4(authenticates the foregoing emails).
- 4 | In the fullness of time, the undersigned will apply to the LBST Court of Appeals for an Enlargement of Time to file an appropriate appellate brief given how recently I was served and given that the Court is aware that I lack the requisite documents to file a timely and pertinent appellate response on behalf of my clients.

| Dated: this 7<sup>th</sup> day of October, 2015

---



By Steven C. Emery  
SD Bar # 466  
Attorney-at-Law  
Attorney for Defendants/Appellants  
Emery Law Firm, PLLC  
2419 Sheridan Lake Road  
Rapid City, SD 57702  
Phone (605) 200-0627  
Fax (605) 867-1166  
Email: [steve\\_emery1989@hotmail.com](mailto:steve_emery1989@hotmail.com)

---

### CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing Notice of Appearance and Motion to Conditionally Substitute Counsel, together with the Exhibits thereto, if any, to the individuals and/or entities listed below, via United States Mail, certified, return receipt requested, postage prepaid and *via* email to:

**Terry Pechota**

Attorney for Plaintiffs/Appellants  
1617 Sheridan Lake Rd  
Rapid City, SD 57702  
Email: [tpechota@1868treaty.com](mailto:tpechota@1868treaty.com)

**Lower Brule Sioux Tribal Court**

Attn: Ms. Marlys Langdeau, Clerk of Court  
In-Hand Delivery

~~Via~~ Email: [marlys.langdeau@lowerbrule.net](mailto:marlys.langdeau@lowerbrule.net)  
~~No due to Stamm~~

**Hon. Judge B.J. Jones**

~~By~~ Email: [hon.bj.jones@gmail.com](mailto:hon.bj.jones@gmail.com)

*Steven C. Emery*

By Steven C. Emery  
SD Bar # 466  
Attorney-at-Law  
Attorney for Defendants/Appellants  
Emery Law Firm, PLLC  
2419 Sheridan Lake Road  
Rapid City, SD 57702  
Phone (605) 200-0627  
Fax (605) 867-1166  
Email: [steve\\_emery1989@hotmail.com](mailto:steve_emery1989@hotmail.com)

DATED this